

## CHAPTER 400. PERMIT TYPES AND APPLICATIONS

### SECTION 407. RELIEF PROCEDURES

#### 407.1. Appeals

##### A. General

The authority granted by this section shall be limited to final determinations made by the Planning Commission (PC) and other administrative officials empowered to implement or interpret this Code. A determination shall not be considered "final" and appealable pursuant to this section unless:

1. A land development regulation specifically states that the determination is appealable in accordance with this section;
2. The determination is in writing and uses the phrase "final determination" or otherwise states that the determination is appealable pursuant to this section; or
3. The determination is a written policy or interpretation of general applicability that is considered final upon approval by the PC or upon final publication by the administrative official empowered to render such policy or interpretation.

##### B. The Appeal Provisions in This Section Shall Not Apply to:

1. County court citations, warnings, or judgments issued pursuant to the process outlined in Section 125.69, Florida Statutes; Chapter 162, Part II, Florida Statutes; and/or Chapter 1 of the Pasco County Code of Ordinances; or
2. Provisions of this Code, the Code of Ordinances, or other resolutions or regulations of the Board of County Commissioners (BCC) for which different appeal procedures are provided in such provisions or by State law.

C. Process

Table 407-1 provides for the appeal body and timeframe in which appeals must be filed.

**TABLE 407-1**

<b>Final Determination</b>	<b>Appeal Body</b>	<b>Application and Fee</b>
Code Interpretations	BCC	30 Days
Administrative Final Decisions Related to Application for Development	PC	30 Days
PC Action	BCC	30 Days*
Sign Permit Denial Applications	BCC	30 Days

\*Applications for Appeals of PC Action have sixty (60) days to be made complete. All other Applications for Appeals must be complete within thirty (30) days.

Failure to submit an appeal application and fee within 30 (thirty) days of the rendering of the decision to be appealed or to complete the appeal application within the required time period (thirty [30] or sixty [60] days as applicable from the rendering of the decision to be appealed) shall foreclose the right to initiate the administrative appeal. Additionally failure to submit a completed application for appeal shall foreclose the right to initiate the administrative appeal. Each appeal application shall be accompanied by a separate application fee and treated as a separate appeal application, provided; however, the County Administrator or designee may consolidate related appeal applications for agenda, notice, and public hearing purposes.

D. Appeal Application

An appeal shall be initiated by the aggrieved person by filing an application and the required fee. A complete appeal application shall consist of the following:

1. Statement of the final determination and date of the same that is the subject of the appeal.
2. Copy of the final determination being appealed.
3. For appeals from the PC, a verbatim transcript of the meeting in which the matter being appealed was conducted. The verbatim transcript shall consist of the complete discussion of the PC meeting for the matter being appealed. The verbatim transcript produced by the Pasco County Clerk and Comptroller is acceptable.

4. Statement of the relief requested.
5. Justification for the relief requested, including citations to the specific portions of the verbatim transcript, exhibits, this Code, and/or Comprehensive Plan provisions relevant to the relief requested.

E. Hearing Procedures

An action on the appeal application, which may include conducting the public hearing, remand, or continuance of the matter being appealed, shall occur within 90 days of the filing of the complete appeal application, unless an appellant who is also the development approval applicant requests an extension of such time period. Public notice of the hearing shall be provided in accordance with Sections 303.7 and 304, as applicable. Sign Permit appeal hearings shall be held within the timeframe provided in Section 406.1.2.

F. Standards of Review

1. Appeals of Decisions of Administrative Officials. The BCC or PC, as applicable, shall conduct a de novo hearing on appeals and may adopt, modify, condition, or reverse both factual findings, legal conclusions, and conditions relating to the matter being appealed or remand the matter to the County Administrator or designee for reconsideration based on direction from the BCC or PC, as applicable. Notwithstanding the foregoing, the BCC or PC, as applicable, may remand any appeal filed pursuant to this Section to the County Administrator or designee without conducting a public hearing.
2. Appeals of Final Determinations of the PC. In considering appeals of final actions of the PC the BCC shall base its decision on facts in the record of the PC public hearing, as applicable, and shall not make new factual findings or base its decision on evidence or facts outside of the record. However, the BCC may base its decision on any applicable law and may adopt, modify, condition, or reverse the PC's legal conclusions and conditions including, but not limited to:
  - a. Conclusions and conditions relating to consistency with this Code, the Comprehensive Plan, and County approvals and development orders;
  - b. Conclusions and conditions relating to the application of this Code, the Comprehensive Plan, and County approvals and development orders to the record evidence and facts;
  - c. Reweighing the record evidence to evaluate consistency with this Code, the Comprehensive Plan, and County approvals and development orders; and/or

- d. Interpretations of this Code, the Comprehensive Plan, or County approvals and development orders.

The BCC may also remand that the matter being appealed to the PC receive additional evidence, make additional factual findings, or reconsider the matter based on direction from the BCC.

G. Final Determinations on Appeals

The final determination pertaining to an appeal shall be rendered within thirty (30) days of the close of the appeal hearing. Final determinations granting or remanding an appeal may be rendered in writing or by motion and may, if rendered in writing, include findings of fact, findings or conclusions of law, conditions of approval, and action taken. Final determinations denying an appeal shall be rendered in writing, including citations to any applicable ordinance, rule, statute, or other legal authority for the denial.

A final determination shall be deemed "rendered" after it is reduced to writing and signed by the Chairman, Vice-Chairman, or acting Chairman of the BCC or PC, as applicable, or after the adoption of a motion if no written decision is to be prepared and entered.

H. Appeals of Final Determinations of the BCC

Any aggrieved party may appeal a final determination of the BCC to the Sixth Judicial Circuit Court of the County in accordance with the applicable Florida Rules of Procedure. An appeal shall be filed within thirty (30) days of the decision to be appealed and shall not be a hearing de novo, but shall be limited to appellate review of the record created before the BCC in accordance with applicable law for a first tier certiorari review. For the purposes of this appeal, the "record" shall include:

1. The transcript of the BCC public hearing, along with any additional evidence accepted at the public hearing;
2. Where the BCC action was an appeal, the transcript of the PC public hearing, along with any additional evidence accepted at the PC public hearing; and
3. Any applicable County staff reports and written orders or decisions of the PC.

I. Administrative Res Judicata

When a decision on an appeal application has been rendered by the BCC, no new appeal may be submitted where the new appeal requests the same relief or determination, unless the applicant can demonstrate and the County Administrator or designee determines that a material change in the

circumstances or conditions has occurred which could prompt a different or contrary decision. For the purposes of this Section, facts or circumstances which were known or could have been discovered through the exercise of reasonable due diligence of the applicant or his privy prior to the initial application shall not constitute a sufficient basis for claiming a change in circumstances or conditions. This provision does not address or modify the res judicata effect of the BCC decisions in subsequent State or Federal court proceedings; such effect shall be determined in accordance with applicable law.