

## Article 26. APPEALS

### **Sec. 26-1 - Appeals from decisions of the board of architects, building and zoning director or administrative official.**

An appeal from any decision of the Board of Architects, Building and Zoning Director or Administrative Official, may be taken to the Board of Adjustment no later than sixty (60) days after the decision has been made by any aggrieved party. Application for postponement of the public hearing of an appeal shall be allowed according to the provisions stated in Section 26-4 herein.

At the time any such appeal is considered by the Board of Adjustment such Board shall give the Board of Architects, or the Building and Zoning Director or the Administrative Official, as the case may be, and the appellant, an opportunity to be heard. (3046, 3058)

### **Sec. 26-2 - Appeals from decisions of the board of adjustment, planning and zoning board and historic preservation board. (3058, 3134, 3193)**

An appeal from any decision of the Board of Adjustment Planning and Zoning Board or Historic Preservation Board upon any matter initiated before such Board, or before the Board of Adjustment upon appeal from the decision of the Board of Architects, Building and Zoning Director, or any Administrative Official of the City may be taken to the City Commission by any aggrieved party.

Except as to the appeals of tentative plats, which are governed by Chapter 23 of the City Code, "Subdivisions," the following procedure shall govern the filing of appeals: (3284, 3586)

- (a) Any aggrieved party desiring to appeal a decision of the Board of Adjustment or Planning and Zoning Board shall, not less than five (5) days and within fourteen (14) days from the date of such decision, file a written Notice of Appeal with the City Clerk, whose duty it shall then become to send a written notice of such appeal to all persons previously notified by the Board. The matter shall then be heard by the City Commission at its next meeting, provided at least ten (10) days has intervened

between the time of the filing of the notice of appeal and the date of such meeting; if ten (10) days shall not intervene between the time of the filing of the notice and the date of the next meeting, then the appeal shall be heard at the next following regular meeting of the City Commission and the City Commission shall render a decision, without any unnecessary or undue delay, unless application for deferral has been made as permitted in Section 26-4 herein.

- (b) Any individual or their agent or representative filing an appeal from a decision of the Board of Adjustment or Planning and Zoning Board upon any matter which they have initiated as an "applicant" before said Board shall pay a fee of two-hundred (\$200.00) dollars to the City Clerk upon filing such appeal. Any "aggrieved party" filing an appeal from a decision of the Historic Preservation Board shall pay a fee of two-hundred (\$200.00) dollars to the City Clerk upon filing such appeal. In cases where multiple parties have filed an "aggrieved party" appeal, said appeal shall be heard as one appeal and said appeal fee shall be equally divided among the parties. An appeal shall stay all proceedings in the matter appealed from until the final disposition of the appeal by the City Commission.
- (c) Upon the taking of an appeal, the City Commission shall conduct a de novo review of the decision of the Board of Adjustment or Planning and Zoning Board. The property owners, objectors or interested parties may offer or submit additional evidence and testimony at the hearing before the City Commission. The City Commission is authorized to affirm, affirm with conditions, or override the decision of the Board of Adjustment or the Planning and Zoning Board. Any decision by the Board of Adjustment or Planning and Zoning Board can only be reversed by a majority vote of the City Commission. The granting of any appeal by the City Commission shall be by resolution.

**Sec. 26-3 - Appeals from decision of the city commission.**

An action to review any decision of the City Commission under this Zoning Code may be taken by any person or persons, jointly or severally, aggrieved by such decision by presenting to the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in the manner and within the time provided by Florida Rules of Appellate Procedure.

Challenges to development order decisions based on consistency or inconsistency of the development order with the City of Coral Gables Comprehensive Plan shall be governed by the provisions of Section 163.3215, Florida Statutes (1995). For purposes of this section, the term "development order" shall have the same meaning as defined in Section 163.3164(7) (Florida Statutes).

[No person aggrieved by any zoning resolution, order, requirement, decision or determination of any administrative official or by any decision of the Board of Architects, Board of Adjustment or Planning and Zoning Board may apply to the Court for relief unless he/she has first exhausted the remedies provided in Article 26 of the Zoning Code and taken all available steps provided therein.]

The record when pertaining to the record of the Commission or any board or official from which appeal is taken shall include any application, exhibits, appeal papers, written objections, waivers or consents, considered by the Commission, or such board, as well as transcripts or stenographic notes taken for the Department at a hearing held before the Commission or any such board, the City Commission minutes or the boards minutes and resolution showing its decision or action, and if the record of a lower board is transmitted to the City Commission, the record of the City Commission shall include the record of the lower board. The record shall also include any and all applicable portions of the Zoning Code and where applicable the City Code, the report and recommendations of the Departments, the City Use and Area Maps and Comprehensive Plan, as well as applicable district boundary maps, aerial photographs and final zoning resolutions

or ordinances. It shall also include the record made as a result of any prior zoning applications on the same property. The Clerk of the City Commission shall identify all exhibits used at the Zoning hearing. All exhibits so identified or introduced shall be a part of the record. [Interested parties are advised that review of certain comprehensive planning decisions may be subject to the review provisions contained in Chapter 163, Florida Statutes, and the Florida Rules of Appellate Procedure in lieu of the provisions of this Article]. (3212)

**Sec. 26-4 - Postponement of appeals of the Board of Adjustment, Planning and Zoning Board, Board of Architects, Building and Zoning Director or administrative official. (3134, 3365, 3411, 3561)**

- (a) Applicants and/or aggrieved parties desiring postponement of an appeal before the City Commission on an application from the Board of Adjustment or an appeal to the Board of adjustment on an application from the Board of Architects, building and Zoning Director, or Administrative Official, shall adhere to the following provisions for postponement:
  1. First postponement must be requested in writing to the Office of the City Manager for items being considered by the City Commission, or to the Building and Zoning Director for items being considered by the Board of Adjustment, which will be automatically granted. Payment of three-hundred (\$300.00) dollars Postponement Fee shall be required to defray expenses associated with readvertisement and/or notification. The City and any Board member thereof shall not be required to pay for an appeal postponement. The item will then be placed on the next month's agenda.
  2. Second postponement by the same party must be requested in the same manner as the first postponement, which will be automatically granted upon payment of a three-hundred (\$300.00) dollars Postponement Fee.
  3. Following two postponements, the item will then be placed on the next month's agenda and there shall be no further postponements absent approval of the reviewing body. The third and each additional postponement, if approved,

shall only be granted upon payment of a three-hundred (\$300.00) dollars Postponement Fee.

(b) Applicants and/or aggrieved parties desiring postponement of an appeal before the City Commission on an application from the Planning and Zoning Board, shall adhere to the following provisions for postponements:

(1) First postponement. Requests for initial postponement must be requested in writing to the Office of the City Manager. A copy of the request shall be forwarded to the Board Secretary and the City Clerk. The request shall include a specific time frame for postponement. No more than 90 calendar days may be requested and will be automatically granted.

(2) Second postponement. Requests for second postponement must be requested in writing to the Office of the City Manager. A copy of the request shall be forwarded to the Board Secretary and the City Clerk. The second postponement request may not exceed 30 calendar days. The City Manager's Office shall evaluate the request and may administratively grant the request or schedule the request for City Commission review and approval.

(3) Third postponement. If the appeal is not considered by the City Commission within the 120 calendar days as provided above, the application shall be scheduled for City Commission consideration at the next available City Commission meeting. The City Commission shall evaluate the application and determine if additional postponement are warranted. The maximum time frame an appeal can be postponed from the initial date the application was scheduled for City Commission consideration is 180 days.

(4) Appeal postponement fees. Applicants and/or aggrieved parties shall be required to pay all applicable costs for all postponement requests, which as a minimum shall include a three-hundred (\$300.00) dollar postponement fee to cover all applicable administrative costs in

connection with the request. If the City Commission requests adjacent property owners be notified or advertised, all costs shall be the responsibility of the applicant or aggrieved party.

(5) Applicant responsibility. It shall be the responsibility of the applicant to adhere to the requirements provided herein, which shall include monitoring and insure the application proceeds forward for City Commission consideration. Failure of the applicant to follow the above provisions shall render the application as expired.

(6) Appeal review expiration. Appeals which do not secure City Commission consideration as provided in the above sections or are not considered by the City Commission within six (6) months shall be deemed abandoned and void. The applicant shall be subject to all applicable code provision under the appeal process.