

Appeal of Land Use Hearing Officer Decision Instructions



**Hillsborough
County Florida**
Development Services

Except where a different procedure is set forth in the Land Development Code (LDC), any decision of the Land Use Hearing Officer (LUHO), excluding appellate decisions, may be appealed to the Land Use Appeals Board (LUAB) in accordance with the procedures found in [LDC Section 10.05.02](#). This section is included below for your information.

It is important to understand that in order to appeal a decision, **you must have “standing.”** The requirements for having standing to appeal an administrative decision are found in [LDC Section 10.05.02.B](#).

You must submit the completed appeal application (pages 4-7 in this packet) **within 30 calendar days** of when the LUHO decision was rendered in accordance with the [schedule](#).

It is critical that you submit a fully completed application by the deadline to preserve your appeal rights. If you fail to submit a fully completed application by the deadline, your appeal rights will be lost. Therefore, if you are planning to appeal a decision, you are strongly encouraged to **submit your application without delay** rather than waiting until the last day.

LDC Section 10.05.02

A. Generally

Except where a different procedure is set forth elsewhere in this Code, and except for appellate decisions rendered pursuant to [10.05.01](#), any decision of the Land Use Hearing Officer under this Code may be appealed to the Land Use Appeals Board as set forth below and in [Section 10.2](#) of the Development Review Procedures Manual.

B. Standing to Appeal

The following shall have standing to appeal a decision of the Land Use Hearing Officer, or to intervene in an appeal that has been filed pursuant to this section:

1. An applicant who is adversely affected by the Land Use Hearing Officer’s decision; or
2. Any person or entity who:
 - a. Was present at the hearing before the Land Use Hearing Officer and presented either oral testimony or documentary evidence; or
 - b. Submitted documentary evidence themselves or by proxy prior to or during Land Use Hearing Officer hearing, and
 - c. Is adversely affected by the Land Use Hearing Officer’s decision.

The Land Use Appeals Board shall determine whether a person or entity has standing to appeal or intervene in an appeal at the appeal hearing.

C. Notice of Appeal

1. A Notice of Appeal of a decision shall be filed within 30 calendar days of the date on which the Land Use Hearing Officer rendered the decision in writing. Said Notice of Appeal shall be in accordance with the submittal requirements of appeals as defined in [Section 10.1](#) of the Development Review Procedures Manual.
2. The Notice of Appeal shall be filed with the Administrator and shall set forth the basis for the appeal.

D. Referral to Land Use Appeals Board

1. The Administrator shall schedule the matter before the next regularly scheduled meeting of the Land Use Appeals Board that is at least 20 days from the date the Notice of Appeal was filed
2. The Appellant must provide a Notice of Hearing to all parties of record as defined in [LDC 10.03.06.A.1](#) and [10.03.06.A.3](#) no later than 20 days prior to the Land Use Appeals Board hearing date by proof of mailing receipt.
3. A copy of the notice of hearing, a list of all parties who were noticed and an executed Certificate of Mailing must be submitted to the administrative office of the Land Use Appeals Board no later than five calendar days prior to the Land Use Appeals Board hearing date.

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E. Continuances

1. One continuance shall be granted to the appellant and/or property owner, whichever requested the continuance, if the continuance request is filed with the administrative office of the Land Use Appeals Board at least 14 calendar days or more before the Land Use Appeals Board hearing date.
2. The appellant and/or property owner shall send the notice of continuance by proof of mailing to all parties of record at least 11 calendar days of the Land Use Appeals Board's hearing and shall submit proof of mailing to the administrative office of the Land Use Appeals Board at least 5 calendar days prior to the hearing date. This notification shall include the new time, date, and location of the meeting.
3. If the criteria for granting a continuance as listed in [10.05.02.E.1](#) not satisfied, the continuance request shall be considered by the Land Use Appeals Board at its meeting when the petition was scheduled for consideration.
4. At its discretion for unique circumstances, the Land Use Appeals Board may continue a petition at the Land Use Appeals Board's meeting without notification.

F. Conduct of Hearing

1. The hearing shall be limited to the record on appeal, as defined at [10.03.03 H](#) of this Article, and shall consist of oral argument by the Administrator, party appealing the decision, and any intervenor(s), each of whom may be represented by legal counsel and/or by the party who served as their designated representative in the matter that is the subject of the appeal.
2. In addition to the record on appeal, the Land Use Hearing Officer and parties to the appeal may freely refer to the following:
 - a. Applicable portions of the Hillsborough County Comprehensive Plan, the Hillsborough County Land Development Code, and any other duly adopted Hillsborough County ordinance, rule or resolution.
 - b. Any state or federal statute, rule, or decision.

G. Authority of Land Use Appeals Board

The Land Use Appeals Board shall review the record on appeal and hear argument from parties who have standing to appeal or intervene in an appeal. The Land Use Appeals Board shall have the authority to either uphold the Land Use Hearing Officer's decision remand the case back to the Land Use Hearing Officer, or overturn the Land Use Hearing Officer's decision pursuant to [10.05.02.G.2](#).

1. If the Land Use Appeals Board remands a case back to the Land Use Hearing Officer, the Land Use Appeals Board shall specify the reason for the remand and specify the issues for the Land Use Hearing Officer to address. Notice for remanded hearings before the Land Use Hearing Officer shall be in accordance with [10.03.02.D.2.d](#).
2. The Land Use Appeals Board may overturn the decision of the Land Use Hearing Officer only if the all following criteria have been met:
 - a. The case has been remanded one time by the Land Use Appeals Board to the Land Use Hearing Officer; and
 - b. Based upon the record on appeal, if the Land Use Appeals Board finds that one or more of the official findings of fact and the conclusions of law as found in the decision of the Land Use Hearing Officer is unsupported by competent and substantial evidence in the record or if the essential requirements of the law have not been followed; and
 - c. A supermajority of five (5) Land Use Appeals Board members vote to overturn the Decision of the Land Use Hearing Officer.
3. If the Land Use Appeals Board overturns the Decision of the Land Use Hearing Officer, the Land Use Appeals Board must make findings of fact and conclusions of law. The Land Use Appeals Board may accept, reject or modify the Land Use Hearing Officer's findings of fact and conclusions of law in making the final decision. In addition, the Land Use Appeals Board may impose reasonable conditions on the permit request, if granting the request.

H. Finality of Decision

The decision of the Land Use Appeals Board shall be rendered at the conclusion of the hearing but shall be reduced to writing. Final decisions of the Land Use Appeals Board may be challenged by any persons with standing under state law, in whatever way authorized by state law.

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County Florida**
Development Services

LDC Section 1.03.04

J. Computation of Time

The time frame within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

LDC Section 10.03.06

A. Defined. A Party of Record is:

1. A person who was present at the hearing before the Land Use Hearing Officer and presented either oral testimony or documentary evidence.
2. A person who was notified of the hearing before the Land Use Hearing Officer by proof of mailing pursuant to the terms of this Code.
3. A person who submitted documentary evidence to the master file two business days prior to the Land Use Hearing Officer hearing or by proxy during the Land Use Hearing Officer hearing.

Appeal of Land Use Hearing Officer Decision Application



**Hillsborough
County Florida**
Development Services

Important Instructions to All Appellants:

Email your completed application to ZoningIntake-DSD@HCFLGov.net or visit [HCFLGov.net/DigitalDropOff](https://www.hcflgov.net/DigitalDropOff). All requirements listed on the submittal checklist must be met. Incomplete applications will not be accepted. For questions regarding the appeal process, please call (813) 307-4739 or send an e-mail to ZoningIntake-DSD@HCFLGov.net

Official Use Only

Application No:

Intake Date:

Receipt Number:

Intake Staff Signature:

Land Use Hearing Officer (LUHO) Decision Being Appealed

Application Number of Decision: _____

Subject Property Address (If Applicable): _____

Folio(s): _____

Appellant Information

Name: _____ Daytime Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email: _____ Fax Number: _____

Appellant's Representative

(Must be Legal Counsel and/or Party Who Served as Designated Representative in the Matter that is Being Appealed)

Name: _____ Daytime Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Email: _____ Fax Number: _____

I hereby swear or affirm that all the information provided in the submitted application packet is true and accurate, to the best of my knowledge, and authorize the representative listed above to act on my behalf on this application.

Signature of the Appellant

Type or print name



Affidavit to Authorize Agent

(If applicant is other than owner)

**State of Florida
County of Hillsborough**

(Name of all appellant), being first duly sworn, depose(s) and say(s):

1. That (I am/we are) the appellant for the following decision of the Land Use Hearing Officer, to wit:

Application number of LUHO decision: _____

2. That the undersigned (has/have) appointed: _____
as their representative in this matter.

3. That this affidavit has been executed to induce Hillsborough County, Florida to consider and act on the above described appeal;

4. That (I/we), the undersigned authority, hereby certify that the foregoing is true and correct.

Signed (Property Owner)

Type or Print Name

Signed (Property Owner)

Type or Print Name

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, _____, by _____
(year)

(name of person acknowledging)

Personally Known OR Produced Identification

Type of Identification Produced _____

(Signature of Notary taking acknowledgment)

Type or Print Name of Notary Public

Commission number

Expiration date

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, _____, by _____
(year)

(name of person acknowledging)

Personally Known OR Produced Identification

Type of Identification Produced _____

(Signature of Notary taking acknowledgment)

Type or Print Name of Notary Public

Commission number

Expiration date

Identification of Sensitive/Protected Information and Acknowledgement of Public Records



**Hillsborough
County Florida**
Development Services

Pursuant to [Chapter 119 Florida Statutes](#), all information submitted to Development Services is considered public record and open to inspection by the public. Certain information may be considered sensitive or protected information which may be excluded from this provision. Sensitive/protected information may include, but is not limited to, documents such as medical records, income tax returns, death certificates, bank statements, and documents containing social security numbers.

While all efforts will be taken to ensure the security of protected information, certain specified information, such as addresses of exempt parcels, may need to be disclosed as part of the public hearing process for select applications. If your application requires a public hearing and contains sensitive/protected information, please contact [Hillsborough County Development Services](#) to determine what information will need to be disclosed as part of the public hearing process.

Additionally, parcels exempt under [Florida Statutes §119.071\(4\)](#) will need to contact [Hillsborough County Development Services](#) to obtain a release of exempt parcel information.

Are you seeking an exemption from public disclosure of selected information submitted with your application pursuant to Chapter 119 FS? Yes No

I hereby confirm that the material submitted with application _____

Includes sensitive and/or protected information.

Type of information included and location _____

Does not include sensitive and/or protected information.

Please note: Sensitive/protected information will not be accepted/requested unless it is required for the processing of the application.

If an exemption is being sought, the request will be reviewed to determine if the applicant can be processed with the data being held from public view. Also, by signing this form I acknowledge that any and all information in the submittal will become public information if not required by law to be protected.

Signature: _____
(Must be signed by applicant or authorized representative)

Intake Staff Signature: _____ Date: _____



Submittal Requirements for an Appeal of LUHO Decision

Incomplete applications will not be accepted

| | Included | N/A | Requirements |
|---|--------------------------|--------------------------|---|
| 1 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Fee Payment</u> |
| 2 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Application form</u> (included in this package) |
| 3 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Affidavit(s) to Authorize Agent</u> (if applicable) NOTE: Appellant must sign the Affidavit to Authorize Representative. If appellant is a corporation, submit the Sunbiz information indicating that you are authorized to sign the application and/or affidavit. |
| 4 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Identification of Sensitive/Protected Information and Acknowledgement of Public Records</u> |
| 5 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Written Statement of Appeal</u> |
| 6 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Copy of Decision Being Appealed</u> |
| 7 | <input type="checkbox"/> | <input type="checkbox"/> | <u>Evidence of Standing to Appeal</u> |

Notice to Applicants

The Land Use Appeals Board hearing is limited to the record of the Land Use Hearing Officer (LUHO) decision that you are appealing, as defined in Section 10.03.03.H of the Land Development Code. **Therefore, please do not submit any new evidence with your appeal application, including but not limited to photographs, that were not part of record for the LUHO hearing for the decision you are appealing.**

Notwithstanding, you may freely refer to applicable portions of the Land Development Code, Hillsborough County Comprehensive Plan and any other duly adopted Hillsborough County ordinance, rule or resolution, as well as any state or federal statute, rule or decision.



Notice of Appeal of Land Use Hearing Officer Decision

DATE: _____

APPEAL NUMBER: _____

APPELLANT: _____

DECISION BEING APPEALED: _____

LOCATION OF SUBJECT
PROPERTY OF DECISION: _____

FOLIO #: _____

MAILING ADDRESS OF PARTY
OF RECORD: _____

YOU ARE HEREBY NOTIFIED that an appeal of the Land Use Hearing Officer decision identified above has been filed with the Hillsborough County Development Services Department and has been scheduled for hearing by the Land Use Appeals Board (LUAB) pursuant to Section 10.05.02.D.1 of the Land Development Code.

The appeal hearing before the LUAB has been scheduled for Friday, _____, at 1:30 p.m.

Meeting location: _____

Please direct all inquiries regarding this appeal to:

Sonia Rodriguez
Manager, Citizen Boards Support
(813) 272-7181
601 E. Kennedy Blvd., 18th Floor Tampa, FL 33601

Appellant Name: _____

Appellant Address: _____

Decision being appealed: _____

Date of decision appealed: _____



**Hillsborough
County** Florida

Notice of Continued Hearing Date for Appeal of Land Use Hearing Officer Decision

DATE: _____

APPEAL NUMBER: _____

APPELLANT: _____

DECISION BEING APPEALED: _____

LOCATION OF SUBJECT
PROPERTY OF DECISION: _____

FOLIO #: _____

MAILING ADDRESS OF PARTY
OF RECORD: _____

YOU ARE HEREBY NOTIFIED that an appeal of the Land Use Hearing Officer decision identified above has been filed with the Hillsborough County Development Services Department and was scheduled for hearing by the Land Use Appeals Board (LUAB) pursuant to Section 10.05.02.D.1 of the Land Development Code.

The appeal hearing before the LUAB has been continued from its original date of _____ and is now scheduled for Friday, _____, at 1:30 p.m.

Meeting location: _____

Please direct all inquiries regarding this appeal to:

Sonia Rodriguez
Manager, Citizen Boards Support
(813) 272-7181
601 E. Kennedy Blvd., 18th Floor Tampa, FL 33601

Appellant Name: _____

Appellant Address: _____

Decision being appealed: _____

Date of decision appealed: _____



Notice Affidavit

I hereby state that I am the appellant or the agent for the appellant in the matter of the appeal of the decision of the Land Use Hearing Officer to the Land Use Appeals Board, for Appeal # _____.

I further state that I have notified all parties of record as defined in LDC 10.03.06.A., for the above referenced appeal by Proof-of-Mailing as shown by the attached Certificate of Mailing and notice letter as proof of such notification.

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, _____, by _____.
(day) (month) (year) (name of person acknowledging)

Personally Known OR Produced Identification

(Signature of Notary Public - State of Florida)

Type of Identification Produced

(Print, Type, or Stamp Commissioned Name of Notary Public)

(Commission Number)

(Expiration Date)

(Notary Seal)



Certificate of Mailing Example

The following is an example of how the applicant should list all of the addresses for the notice letters that are being mailed to facilitate comparison by the post office clerk of the addresses on the list with the addresses on the letters themselves. The clerk will use this comparison to ensure there is a letter for each exact address, at which point the post office will verify that the letters were mailed.

CERTIFICATE OF MAILING
APPEAL (appel number)

Name & Address of Appellant

1. First Name Last Name of Party of Record
Address Line 1
City, State ZIP Code

2. First Name Last Name of Party of Record
Address Line 1
City, State ZIP Code

3. First Name Last Name of Party of Record
Address Line 1
City, State ZIP Code