




Revision Comparisons; BOA Rules (proposed 2019)*

* NOTE: For sections not shown in this table, text between Workgroup & Brent Lloyd = match.

 = Text matches between Workgroup & Brent Lloyd
 = Brent Lloyd Text varies from Workgroup
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Item	Workgroup Recommendation	Brent Lloyd Recommendation
Article I (A) (2) (a)	Requests for variances from site development regulations adopted under Chapter 25-2, Subchapter C (<i>Use and Development Regulations</i>) and from certain sign regulations under Chapter 25-10 (<i>Sign Regulations</i>);	Requests for variances from site development regulations adopted under Chapter 25-2, Subchapter C (<i>Use and Development Regulations</i>), from airport zoning regulations under Section 241.034 of the Local Government Code , and from certain sign regulations under Chapter 25-10 (<i>Sign Regulations</i>);
Article I (B) (1) (a - d)	<p>(a) the conduct of public hearings and the resolution of cases before the BOA;</p> <p>(b) applications for variances or administrative appeals; and</p> <p>(c) processing of applications for variances and administrative appeals filed with the Development Services Department; and</p> <p>(d) notification to the BOA of the filing of an application for a variance and administrative appeals.</p>	<p>(a) the conduct of public hearings and the resolution of cases before the BOA; and</p> <p>(b) notification and processing of applications for variances or administrative appeals filed with the Development Services Department.</p>
Article II (B) (2) (a) (i & ii)	<p>(2) Administrative Appeals.</p> <p>The BOA is authorized by state law to hear and decide appeals alleging error in an order, requirement, decision, or determination made by staff in the enforcement of Chapter 211 and City zoning regulations, including action on development applications, code interpretations, land use determinations, and suspension or revocation orders.</p>	<p>(2) Administrative Appeals.</p> <p>The BOA is authorized by state law to consider appeals alleging error in decisions and determinations made by staff in the enforcement of City zoning regulations, which may include action on development applications, code interpretations, land use determinations, and suspension or revocation orders.</p>

(a) **Deadline for Filing Appeal.** Under the Land Development Code, **an Interested Party must file** an administrative appeal within 20 days from the date of the staff decision being appealed, unless a different deadline is specifically established. **The BOA may accept an appeal after the deadline on the basis of waiver, estoppel, misrepresentation, misinformation, the interest of justice, or other appropriate legal and equitable grounds.**

- For a non-project code interpretation or use determination not associated with a development application, the date the determination is **published**; and
- For other types of decisions related to City zoning regulations, the date that the decision is **published**.

Article II (B) (2) (b)

(b) **Appeal Forms and Other Procedures.** An appeal must contain the information required under City Code § 25-1-183 and be on a form provided by the Development Services Department **and [the Department] shall:**

- (i) Provide the Board an opportunity to review and **approve** appeal forms; and

Article II (B) (2) (c)

(c) **Notice of Appeal.** On receiving **the notice of appeal**, the official from whom the appeal is taken shall immediately, **no later than 3 business days**, transmit to the Board **the relevant papers constituting the record of the action that is appealed in order that the Board may make a determination.**

Article II (C) (2) (a & b)

(a) Notwithstanding the requirements of City Code § 25-1-131 (*Interested Parties*), any “aggrieved party” has standing to appeal a decision to the Board in accordance with applicable requirements of the Land Development Code and these rules. The Board shall determine standing, **timeliness, ripeness**, and any objections thereto, prior to conducting a public hearing on the appeal.

(a) **Deadline for Filing Appeal.** Under the Land Development Code, an administrative appeal must be filed within 20 days from the date of the staff decision being appealed, unless a different deadline is specifically established.

- For a non-project code interpretation or use determination not associated with a development application, the date the determination is **issued**; and
- For other types of decisions related to City zoning regulations, the date that the decision is **made**.

(b) **Appeal Forms and Other Procedures.** An appeal must contain the information required under City Code § 25-1-83 (*Information Required*) and be on a form provided by the Development Services Department. **The Department should:**

- (i) Provide the Board an opportunity to review and **comment on** appeal forms; and

(c) **Notice of Appeal.** On receiving **an appeal that requests review by the Board**, the official from whom the appeal is taken shall immediately transmit to the Board **all relevant papers from the case file associated with the action that is appealed. To the greatest possible, appeals should be transmitted to the board no later than three business days after the appeal is filed. Notification to the Board is required regardless of whether the deadline or other applicable requirements for filing the appeal have been met.**

(a) Notwithstanding the requirements of City Code § 25-1-131 (*Interested Parties*), any “aggrieved party” has standing to appeal a decision to the Board in accordance with applicable requirements of the Land Development Code and these rules. The Board shall determine standing, and any objections thereto, prior to conducting a public hearing on the appeal.

(b) The BOA may only consider appeals relating to the interpretation of site development regulations or the classification of a land use under Chapter 25-2, Subchapter C (*Use and Development Regulations*), or a separately adopted zoning ordinance. The Board may not consider an administrative appeal that is beyond its legal jurisdiction.

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Article IV (A)

(A) Appeals Limited to Interpretations of Site Development Regulations & Land Use Determinations. The BOA may consider an administrative appeal alleging error in an order, requirement, decision, or determination made by City staff in enforcing a substantive requirement of Chapter 25-2 or other City zoning regulation, including appeals challenging the approval or disapproval of a site plan or building permit and formal code interpretations not related to a particular development.

(A) Appeals Limited to Interpretations of Site Development Regulations & Land Use Determinations. The BOA may consider an administrative appeal alleging error in an order, requirement, decision, or determination made by City staff in enforcing a substantive requirement of Chapter 25-2 or other City zoning regulation, including appeals challenging the approval or disapproval of a site plan or building permit and formal code interpretations not related to a particular development. **Appeals may only be filed as provided authorized by City Code §§ 25-2-2 and 25-2-475 and must meet the procedural requirements, including deadlines, summarized in Rule II(B), above.**

Article V (F) (5) (b) (I & ii)

- (b) For an administrative appeal:
 - (i) The decision sheet may include an addendum stating the Board’s interpretation of the regulation or land use category at issue in the appeal. A decision by the Board is a final determination unless the decision is reversed by District Court or the relevant Code provisions are amended by the City Council.
 - (ii) **The City** shall post precedential BOA decisions on the City’s website.

- (b) For an administrative appeal **that the Board determines to be of precedential value:**
 - (i) The decision sheet may include as an addendum stating the Board’s interpretation of the regulation or land use category at issue in the appeal. A decision by the Board **on the interpretation of City zoning regulations** is a final determination unless the decision is reversed by District Court or the relevant Code provisions are amended by the City Council.
 - (ii) **The Development Services Department** shall post precedential BOA decisions on the City’s website.