

THE TOWN OF HILTON HEAD ISLAND
CONSTRUCTION BOARD OF ADJUSTMENTS & APPEALS
Regular Meeting

Ling Graves, Chairman
Frank Guidobono, Vice Chairman
Robert Tanner
Joe Nix
Neil Gordon
Michael Lynes



Gary M. Schmidt
Jay R. Owen
Robert Zinn
Chauncey Burtch
Randy May

AGENDA
Thursday, May 15, 2014
at 3:00pm in
Benjamin M. Racusin Council Chambers

- I. CALL TO ORDER**
- II. FREEDOM OF INFORMATION ACT COMPLIANCE**
Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- III. WIRELESS TELEPHONE USAGE**
Please turn off all wireless devices so as not to interrupt the meeting.
- IV. SWEARING IN OF CBAA MEMBERS – Mayor Laughlin**
- V. APPROVAL OF AGENDA**
- VI. APPROVAL OF MINUTES**
Approval of CBAA minutes of February 28, 2012
- VII. APPEARANCE BY CITIZENS ON ITEMS UNRELATED TO TODAY’S AGENDA**
- VIII. UNFINISHED BUSINESS**
- IX. NEW BUSINESS**
 - a) **Adopt 2014 CBAA Meeting Schedule.**
 - b) **Consideration of proposed amendments to CBAA Rules of Procedures.**
- X. ADJOURNMENT**

Please note that a quorum of Town Council may result if four (4) or more Town Council members attend this meeting.

**THE TOWN OF HILTON HEAD ISLAND
CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS MINUTES**

Date of Meeting: Tuesday, February 28, 2012

Members Present: Chauncey Burtch, Ray Carlton, Neil Gordon, Ling Graves, Michael Lynes, Joe Nix, Jay Owen, Gary Schmidt, Robert Tanner,

Members Absent: Frank Guidobono, Randy May

Town Staff Present: Bob Klein, *Building Official*; Brian Hulbert, *Staff Attorney*

I. Call to Order

Chairman Graves called the meeting to order at 5:30 p.m.

II. FOIA Compliance

Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

III. Approval of Minutes

The minutes of March 30, 2010 were approved as presented.

IV. Appearance by Citizens on Items Unrelated to Today's Agenda

None

V. Unfinished Business

None

VI. New Business

A. Unsafe and Uninhabitable Property. Mr. Bob Klein reviewed the timeline of notifications sent to Li Lu Ting Tu, owner of 15 Park Lane, Hilton Head Island, S.C. The owner has failed to maintain this structure and the surrounding property and the structure has since become unsafe, uninhabitable and unsightly.

The Board members discussed building and safety codes and various options for the owner to remedy this situation.

Mr. Joseph Kopf, a Hilton Head Island resident, stated for the record that the 15 Park Lane property is unsightly and that it would be in the best interest of our community to demolish it.

Mr. Ray Carlton made the following motion: on March 1, 2012 notification should be mailed to the owner via certified mail and a phone call made to the owner stating that the owner has 90 days (effective March 1, 2012) to either demolish the building or bring the building up to safety standards. If the owner pulls permits within the 90 day period, then an additional 30 days (for a total of 120 days) will be allowed to complete the demolition or the safety repairs. Mr. Joe Nix seconded the motion. The motion passed unanimously.

VII. Adjournment

There being no further business, the meeting adjourned at 6:40 p.m.

Submitted by Eileen Wilson, Senior Administrative Assistant

Approved by: _____
Ling Graves, Chairman

DRAFT

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

2014 *Proposed* SCHEDULE

	Meeting Date	Application Deadline
June	24	10
July	22	8
August	26	12
September	23	9
October	28	14
November	25	11
December	23	9

All meetings to be held on the 4th Tuesday at **5:30 pm** in Council Chambers
unless otherwise noted

TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Construction Board of Adjustments and Appeals
FROM: Jill Foster, Deputy Director
CC: Bob Klein, Building Official
CC: Eileen Wilson, Senior Administrative Assistant
DATE: April 21, 2014
SUBJECT: Revised Rules of Procedure

Recommendation: Staff recommends the Board adopt the attached Rules of Procedure.

Summary: These Rules of Procedure would replace earlier Rules previously adopted by the Board. The new Rules of Procedure are much more explicit in several categories and are similar to Rules adopted by our other Town Boards and Commissions. The intent of the revised Rules is to assist CBAA members in conducting meetings, to better understand their role and duties, and to ensure consistency with state, federal and municipal codes. It is also an effort to combine rules found in the State Code, Town Code (2 chapters), and the International Building Code into one document for easier use and understandability.

Changes include:

- Better explanation on limitations on appeals, variances and show cause hearings, and considerations for variance requests, as per the International Building Code and Municipal Code.
- Addition of sections on membership, length of terms, attendance, and removal from the Board as per the Municipal Code.
- More thorough description of duties of the officers and Board members.
- Explanation on meeting notices, agendas and minutes.
- Description of meeting organization.
- Description for conducting a meeting.
- A summary chart describing various types of motions that can be made.

Background: Original Rules of Procedure were adopted in 1992 and revised in 1998 (see attached). Staff has worked with the Planning Commission, Board of Zoning Appeals, Design Review Board and Parks & Recreation Commission to adopt similar Rules, ensuring that the boards and commissions are following state, federal and municipal regulations in their meetings.

104.10
104.11

ADOPTED 05/19/92

REVISED 11/24/98

TOWN OF HILTON HEAD
CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

Rules of Procedure

I. Officers and Duties

The Construction Board of Adjustments and Appeals (hereinafter referred to as the "Board") at its regular meeting in July of each year shall elect a Chairman and Vice Chairman.

- A. Chairman. A Chairman shall be elected by the voting members of the Board. His term shall be for one year, and his succession in office shall be limited to three years after which time he cannot be re-elected until after a one year period. The chairman shall preside at all meetings of the Board and decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chairman shall appoint any committees found necessary to investigate any matters before the Board.
 - B. Vice Chairman. A Vice Chairman shall be elected by the Board from among its members in the same manner and for the same term as the Chairman. He shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman. The Vice Chairman shall succeed the Chairman if he vacates his office before his term is completed, the Vice Chairman to serve the unexpired term of the vacated office. A new Vice chairman shall be elected at the next regular meeting.
 - C. Secretary. ~~The Director of Inspections~~ **The Director of Building and Fire Codes Department** or his designee shall be the Secretary of the Board and shall be responsible taking applications, notification of meetings, taking and maintenance of minutes, and any other necessary staff support.
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II. Meetings

- A. Regular Meetings. Regular meetings of the Board shall be held on the Fourth Tuesday of each month.
- B. Special Meetings. Special meetings of the Board may be called at any time by the Chairman. At least twenty-four (24) hours notice of the time and place of special meetings shall be given by the Chairman to each member of the Board, provided, that this requirement may be waived by action of a majority of all members.

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Rules of Procedure

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- C. Cancellation of Meetings. Whenever there is no business for the Board, the Chairman will dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.
 - D. Notification of Absence. Each member of the board who has knowledge of the fact that he will not be able to attend a scheduled meeting of the Board shall notify the Inspections Department at the earliest possible opportunity and, in any event, prior to 5:00 PM on the day before the meeting. The staff shall notify the Chairman of the Board in the event that the projected absence(s) will produce a lack of quorum. Three unexcused absences during one calendar year shall be cause for dismissal from the Board.
 - E. Quorum. A quorum shall consist of five (5) members of the Board.
 - F. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) reading of minutes of previous meeting; (b) old business; (c) new business; (d) citizen comments. A copy of the agenda shall be placed on display at Town Hall at least twenty-four (24) hours prior to the meetings.
 - G. Deadline for Agenda. The deadline for filing for placement on the agenda for any appeal or variance shall be ~~one week~~ **two weeks** prior to consideration by the Board or as approved by the Board.
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- H. Filing of Application. An appellant must file a completed application With the secretary of the Board and must pay a non-refundable filing fee of Seventy-five (\$75.00) Dollars.
 - I. Vote. The concurring vote of five (5) members of the Board shall be necessary to affirm any motion by the Board.

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Rules of Procedure

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- J. Conflicts of Interest. Any member of the Board who shall feel he has a conflict of interest on any matter that is on the Board agenda shall voluntarily excuse himself, and refrain from discussing and voting on said item as a Board member. Rules of Conduct. All members of the Board shall comply with the Rules of Conduct Resolution as adopted by Town Council.

III. Amendments

These rules may be amended at any time by an affirmative vote of not less than seven (7) members of the Board, provided that such amendment shall have first been presented to the entire membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

IV. Procedure for Presentation of an Appeal

At the discretion of the Chairman, the appellant will first be given a maximum of ten (10) minutes to present his appeal or variances; the respondent will then be given a maximum of ten (10) minutes to present his response. The appellant will then be allowed an additional five (5) minutes for his rebuttal followed by an additional five (5) minutes rebuttal from the respondent. The board may go into executive session for deliberation on matters covered under the South Carolina Freedom of Information Act.

Construction Board of Adjustments and Appeals
Rules of Procedure
Town of Hilton Head Island

Article I
General

The Board of Construction Adjustments and Appeals exists in order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the Building Codes; to hear requests for variances from the floodplain regulations; or to hear issues involving certain public nuisance violations.

Article II
Authority

Section 1. Authority.

The authority of the Construction Board of Adjustments and Appeals is established by Sec. 15-1-112 of the Municipal Code of the Town of Hilton Head Island, and hereinafter shall be referred to as the "Board."

Section 2. Limitations on Authority in an Appeal from Decision of the Building Official.

Pursuant to Section 15-1-112.2, an application for appeal shall be based on a claim that the true intent of the adopted building code, or the rules legally adopted pursuant to the code, has been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The Board does not have authority to waive requirements of the code.

Section 3. Limitations on Authority in a Variance from Floodplain Regulations.

Pursuant to Title 15 Chapter 9 Article 6 of the Municipal Code, the Board may review an application for variances from the floodplain regulations. A variance may be granted permitting the erection of structures with a lowest floor elevation, including basement, lower than regulatory flood elevation if all of the criteria in 15-9-611 are met.

All variances shall pertain to the particular parcel of land and apply only to the proposed structure set forth in the variance and application. Unless otherwise provided in the permit granted by the Board, the variance will be valid for one (1) year after date of issuance.

Section 4. Considerations for a Variance Request.

In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in the International Building Code and Title 15 Chapter 9 of the

Municipal Code (Flood Damage Controls), and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
8. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
9. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and,
10. Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

Section 5. Limitations on Authority in a Public Nuisance Violation.

Pursuant to Title 9 Chapter 8 of the Municipal Code, The Board may review certain Public Nuisance Violations. The property owner may appear before the Board at a hearing and show cause why the building/structure should not be demolished or otherwise made safe. The Board shall hear only those specified matters or issues raised by the notice of violation.

Article III **Organization & Duties**

Section 1. Membership.

A. Number and Qualifications. The Board shall consist of nine (9) members and two (2) alternates. Such board shall be composed of:

- one (1) South Carolina registered architect,
- one (1) South Carolina licensed general contractor,
- one (1) South Carolina registered engineer,
- one (1) South Carolina licensed mechanical contractor (heating and air conditioning),
- one (1) South Carolina licensed plumbing contractor,
- one (1) South Carolina registered electrical engineer,

- one (1) South Carolina licensed electrical contractor, and
- two (2) members-at-large from the building industry.
- In addition to the regular members, there shall be two (2) alternate members; one (1) member at-large from the building industry and one (1) member at-large from the electrical industry.

None of the members shall hold an elected public office or position with the Town of Hilton Head Island or Beaufort County, South Carolina.

B. Length of Terms. Board members are appointed for four (4) year terms. No member may serve more than two (2) successive terms, except for extraordinary circumstances where Town Council believes it to be in the best interest of the community to have a continuation, for a specified period, of a particular member of the board. Vacancies shall be filled by the Town Council by appointments for the balance of any unexpired terms.

C. Attendance/Absences. Board members are expected to attend all Board meetings to which they are appointed. Each member of the Board who has knowledge of the fact that he will not be able to attend a scheduled meeting of the Board shall notify the designated Administrative Assistant at the earliest possible opportunity and, in any event, prior to end of business on the day before the meeting. The Administrative Assistant will notify the Chairman of the Board in the event that the projected absence(s) will produce a lack of quorum. The Administrative Assistant will keep records on an annual basis of the number of unexcused absences of members.

D. Removal. If a member has a total of three (3) unexcused absences from the annually scheduled regular meetings, the Board may recommend to the Town Council that the member's appointment be revoked. The Town Council may remove a member for cause, according to Section 2-13-70(b) of the Municipal Code. Cause may include, but shall not be limited to, nonattendance at the Board's meetings.

Section 2. Officers.

The Construction Board of Adjustments and Appeals at its regular meeting in July of each year shall elect a Chairman and Vice Chairman. Neither of these two positions shall be filled by a member beginning his or her first year of service as a Board member.

A. Chairman. A Chairman shall be elected by a majority of the members of the Board present. His term shall be for one year, and his succession in office as Chairman shall be limited to no more than three (3) years after which time he cannot be re-elected as Chairman until after a one (1) year period. The Chairman shall:

1. In consultation with the Administrative Assistant and the Building Official, create agendas for all meetings;
2. Preside at all meetings and hearings of the Board;
3. Act as spokesperson for the Board;
4. Sign documents for the Board;

5. Designate a member or personally act as liaison with other governmental agencies and Town Commissions and Boards;
6. Prepare a semi-annual report of Board's activities;
7. Transmit reports and recommendations to Town Council;
8. Work with the Administrative Assistant and the Building Official to ensure all business is conducted in accordance with these Rules of Procedure and Municipal Code; and
9. Perform such other duties as approved by the Board or required by the Municipal Code.

B. Vice Chairman. A Vice Chairman shall be elected by the Board from among its members in the same manner and for the same term as the Chairman. He shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman. The Vice Chairman shall succeed the Chairman if he vacates his office before his term is completed to serve the unexpired term of the vacated office of the Chairman. A new Vice Chairman shall be elected at the next regular meeting.

C. Administrative Assistant. The Town Manager may appoint a staff Administrative Assistant to the Board and this Administrative Assistant shall be responsible for:

1. Publishing and posting notices of all meetings of the Board;
2. Assisting the Chairman in preparation of meeting agendas;
3. Distributing the agenda, prior minutes and other relevant materials to each member in advance of each meeting;
4. Recording the proceedings of Board's meetings and preparing written minutes of meetings for approval by the Board at its next meeting, as well as recording in the minutes the attendance of members at each meeting;
5. Maintaining the Board's notices, correspondence, reports and forms as public records for a period of time consistent with the records retention schedule of the Town of Hilton Head Island; and
6. Assisting in the preparation and forwarding of all reports and recommendations of the Board.

D. Duties of the Board.

Duties of the Board are to:

1. Hear appeals properly brought before the Board based upon the criteria outlined in Article II, Section 2 of these Rules of Procedure and the Municipal Code.
2. Determine whether to approve a variance request based on the criteria outlined in Article II, Sections 3 and 4 of these Rules of Procedure and the Municipal Code.
3. Hear issues related to any Show Cause Hearing as a result of a structure being determined to be a public nuisance and determine whether a structure should be demolished or otherwise made safe.

Article IV
Meetings and Quorum

Section 1. Regular and Special Meetings.

- A. **Meeting Schedule.** An annual schedule of regular meetings of the Board shall be adopted, published and posted at the Town Government Center in December of each year.
- B. **Regular Meetings.** Regular meetings of the Board shall normally be held on the **fourth Tuesday** of each month.
- C. **Special Meetings.** Special meetings of the Board may be called at any time by the Chairman. A minimum of twenty-four (24) hours notice of the time and place of special meetings shall be given by the Chairman to each member of the Board, the media, and any interested parties. Proper publication of the notice of the Special Meeting must be made in order to comply with state FOIA laws.
- D. **Cancellation of Meetings.** Whenever there is no business for the Board, the Administrative Assistant, after consultation with the Chairman and the Building Official, will cancel the meeting by giving notice to all members, the media, and any interested parties, not less than twenty-four (24) hours prior to the time set for the meeting. Proper publication of the notice of cancellation of the Meeting must be made in order to comply with state FOIA laws.
- E. **Quorum.** A quorum shall consist whenever a minimum of five (5) members of the Board are present for a meeting. If a quorum is initially established at a meeting and then a member leaves, the quorum is no longer present. In such an event, transaction of substantive business will not continue for lack of a quorum and the item will be postponed to the next meeting.

Article V
Meeting Administration

Section 1. Agenda.

A written agenda shall be furnished by the Administrative Assistant to each member of the Board, to the media and any interested parties, and then properly published and posted. Any agenda item which requires a hearing shall be properly noted on the agenda and publicly announced at the scheduled meeting. Generally, the agenda should contain:

1. Call to Order;
2. Freedom of Information Act Compliance;
3. Use of Cellular Telephone Prohibited;
4. Approval of Agenda;
5. Approval of Minutes;
6. Appearance by Citizens for Items Not on Agenda;
7. Unfinished Business;

8. New Business;
9. Adjournment.

Section 2. Deadline for Agenda. The deadline for filing or submission of an item for placement on the agenda for any appeal, variance, or 'show cause' shall be fourteen (14) days prior to the scheduled meeting of the Board, unless otherwise authorized and approved by the Board.

Section 3. Minutes.

A. Meetings. Minutes of each Board meeting shall be recorded by the Administrative Assistant and approved at the next meeting after their preparation.

B. Minimum Contents of Minutes.

1. Type of meeting (regular or special).
2. Name of the organization.
3. Date and location of the meeting.
4. Presence of the members and Administrative Assistant.
5. Presence of a quorum.
6. Names of all town staff present.
7. Time the meeting was called to order.
8. Whether the minutes of the previous meeting were approved.
9. All motions and actions taken.
10. Name of the maker of the motion.
11. Record the vote or abstention of each member upon each motion.
12. Record reason for a member voting against the motion, if the member requests.
13. The adjournment and the time of adjournment.
14. Attached reports from appeal, variance application, or show cause hearing.
15. Motions must be recorded in the minutes verbatim.

Article VI
Meeting Organization

Section 1. Regular Meetings/Hearings.

- A. A Hearing must be held for the granting of a variance from floodplain regulations, for an appeal of an administrative decision regarding the Building Codes, or for showing cause when a structure has been declared to be a public nuisance. The following procedures shall be applicable in the presentation of an Appeal from a decision of the Building Official, a Variance from the Floodplain regulations, or to hear issues involving structures declared a public nuisance.
- A. Conflicts of Interest. Any member of the Board who shall feel he has a conflict of interest on any matter that is on the Board agenda shall excuse himself, sign a Conflict of Interest form, and refrain from discussing and voting on said item as a Board member.

Section 2. Presentation of the Town Staff and Applicant/Respondent.

1. The Chairperson *declares the Hearing open* after reading the item on the agenda;
2. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Appeal or Variance. During the presentation by Staff, members of the Board may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board.
3. The Applicant/Respondent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant/Respondent believes supports the Appeal, Variance, or his cause. During the presentation by the Applicant/Respondent, members of the Board may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant/Respondent's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board.
4. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
5. Following the presentation, the Board may ask such additional questions of the Applicant or Staff as the members deem appropriate.
6. Public comment is not normally permitted in a case involving an appeal from a Building Official decision, a variance, or show cause hearing.
7. In the case of a Variance, the Board shall approve, approve with conditions or modifications, or deny the Application for Variance from floodplain regulations.
8. In the case of an Appeal, the Board shall find that the true intent of this code or the rules legally adopted has been incorrectly interpreted; the provisions of this code do not fully apply; an equally good or better form of construction is proposed; or that the Board upholds the decision of the Building Official.
9. In the case involving structures declared a public nuisance, the Board may find that the structure is not safe and shall be demolished or otherwise made safe, or may find that the structure is not unsafe and no action must be taken.
10. Motion and discussion by the Board. Motions should not normally be made until the Board has heard all testimony and received all evidence related to the issue and had sufficient discussion and deliberation on the matter. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision.
11. Vote by the Board.

Section 3. Vote on the Appeal ,Variance, or Show Cause Hearing.

Vote. Following the presentation by all parties and discussion and deliberation of the matter as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Appeal, Variance, or show cause request. The concurring vote of five (5) members of the Board shall be necessary to reverse any action, order, requirement, decision or determination of the building official. If the required number of votes is not obtained, the action, order, requirement, decision or determination of the Building Official shall stand. For votes on Variance applications or any other matter, the affirmative votes of the majority present shall be required.

Section 4. Findings of the Decision.

Finding of those facts which the Board deems material to the decision in their deliberation and decision shall be recorded in writing, and become part of the public record.

Section 5. Executive Session.

If a member determines after reviewing the applicable cases that they would benefit from the advice of legal counsel in Executive Session they shall contact the Chairman prior to the meeting. Executive Session is a meeting at which the proceedings are confidential.

Permitted reasons should include:

1. Personnel reasons
2. Contracts
3. Legal advice relating to pending, threatened or potential claim
4. Discussion regarding development of security personnel
5. Investigative proceedings regarding allegations of criminal misconduct
6. Economic development (specific criteria in FOIA)
7. Legal advice relating to procedural, conflict of interest, or general issues unrelated to a specific matter before the Board.

Entering and Adjourning an Executive Session:

1. A motion to close the current meeting and go into executive session is made and passed by a majority vote;
2. Chairman must announce the specific purpose of the executive session;
3. No formal action may be taken in executive session except to:
 - a. Adjourn
 - b. Return to public session

The Board can request attendance by non-members as they deem appropriate.

Article VII **Conducting the Meeting**

The Chairperson:

1. Is responsible for maintaining order.
2. Should begin the meeting promptly at the scheduled hour if a quorum is present.
3. Should have a well prepared agenda and follow it.
4. Should be familiar with these Rules of Procedure.
5. Keeps the Board working together by explaining procedure clearly and communicating the next order of business. If a motion is confusing, it is his duty to clarify it. This may mean helping a member rephrase a motion or requiring that a long motion be submitted in writing.

6. "Assigns" the floor by recognizing those members who wish to speak by calling them by name. No other member may interrupt or call out remarks without being out of order. Private discussion between Board members while another has the floor is out of order and disruptive members should be reminded of this rule.
7. Should impartially call on members of the public wishing to speak. He should give such members on both sides of an issue an opportunity to speak.
8. Should remain calm and objective, keeping the meeting moving. A sense of humor and a smile can often save the day!
9. Should always restate the motion before taking a vote. If a motion is confusing, it is the Chairperson's duty to clarify it – rephrasing it or putting a long motion in writing. (Complex motions may be brought to the meeting pre-written.) The motion is said to be pending once it has been stated by the Chairperson. It must be disposed of in some manner before other business can be considered.
10. States, "Since there is no second, the motion is not before this meeting," if a motion fails to get a second.
11. Opens debate by saying "Is there any discussion?" The Chairperson *must* open all debatable questions to debate.
12. May take part in the discussion and vote on the issue. The Chairperson should not dominate the discussion, but seek to involve everyone's comments in an equal and impartial manner.
13. May make a motion by passing the gavel to the Vice-Chairperson or designee who will then preside over the issue.
14. Recognizes members who wish to speak by stating their names.
15. Puts the question to vote. The vote is taken in the following way:
 - a. The Chairperson restates the motion – keeping the members clear about the purpose of the vote.
 - b. "All in favor of the motion please say aye.....those opposed say no."
16. Announces the result of the vote by interpreting the action taken.
17. Should not allow irrelevant discussion. Restate the question and, if necessary directly request the member to "confine his remarks to the pending question."
18. Should use the gavel sparingly, tapping it once to open and close the meeting.
19. Can assist a member in making a motion.
20. Should not make the motion unless it is a small board.
21. Can adjourn the meeting without a motion by stating "If there is no further business and there is no objection, the meeting will be adjourned. There being no objection, the meeting is adjourned."

Article VIII
Amendments to Rules of Procedure

These rules may be amended at any time by an affirmative vote of not less than seven (7) members of the Board, provided that such amendment shall have first been presented to the entire membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

Attachment for Reference

TYPES OF MOTIONS

Note: Items in blue are the most commonly used types of motions.

Main Motions	A main motion is defined as a proposal that certain action is taken or an opinion be expressed by the group. The words to use are: "I Move."
Secondary Motions	A secondary motion is one which can be made while the main motion is on the floor and before it has been decided. Secondary motions are divided into three classes which relate to their use in parliamentary procedure. Those classes are: <ul style="list-style-type: none"> ○ Subsidiary motions ○ Privileged motions ○ Incidental motions
Subsidiary Motions	Subsidiary motions relate directly to the motion on the floor. They may change the words, send it to a committee, delay it, etc. They are designed to expedite business by disposing of the pending motion other than by adopting or rejecting it. <i>Subsidiary motions are the class of motions most frequently used in meetings.</i> These motions have rank (order of precedence of motions) among themselves. A motion of higher rank can be made while a motion of lower rank is on the floor. The lower rank motion "yields" to the higher rank motion. (Motion to postpone has higher rank than the motion to commit and takes precedence. If motion to postpone is adopted, the main motion and the motion to commit are postponed until the next meeting.)
Privileged Motions	Privileged motions are motions of an emergency nature, such as to recess or adjourn. They do not relate to the motion on the floor but to the welfare of the group. They are of high rank and must be handled before any other business that may be pending.
Incidental Motion	Incidental motions are procedural. They deal with process, such as enforcing proper procedure, correcting errors, verifying votes, etc. When introduced, they must be decided before business can resume.
Amending a Motion	General consent can be used with amendments to motions if the Chairman feels the group will accept the amendment. "If there is no objection, the motion is so amended." <i>Restate the motion.</i>
Motions to Commit	Have precedence over the motion to amend. More than one motion can be on the floor but only one question. All pending motions must relate to the main motion on the floor. No new business may be introduced.
Point of Order	Motion used if a board member feels the Chairman is failing to operate within the rules.

Restorative Motions or Motions that Bring Back a Question

Restorative Motion	Allows a group to change its mind. <ul style="list-style-type: none"> ○ They are a separate category because of their contradiction to the parliamentary rule that once a question has been decided it cannot be brought up again at the same meeting. ○ Within limits, members have the right to rethink a situation if they feel their decision has been made too quickly or without enough information. ○ The two most commonly used restorative motions are: <i>Rescind</i> and <i>Reconsider</i>.
Rescind	Rescind is the motion to use to quash or nullify a previously adopted motion. It may strike out an entire motion, resolution, bylaw, etc. <ul style="list-style-type: none"> ○ Rescind is <i>not in order</i> when any action has already been taken as a result of the vote, such as any kind of contract when the other party has been notified.

	<ul style="list-style-type: none"> ○ It must be seconded. ○ It requires a <i>two-thirds</i> vote unless <i>notice has been given</i> at the previous meeting, either verbally or in writing. If notice has been given, the motion requires only a <i>majority</i> vote.
Reconsider	<p>Reconsider is the motion which allows a group to reconsider the vote on a motion. It enables a majority of the members, within a limited time, to bring back a motion for further consideration after it has been acted upon. Its purpose is to prevent hasty or ill-advised action.</p> <ul style="list-style-type: none"> ○ Reconsider has special rules to prevent its abuse by a disgruntled minority, since it allows a question already decided to be brought up again. ○ Rules limit who can make the motion. It can only be made by someone who voted on the prevailing (winning) side. ○ It has a time limit. It must be made on the same day that the vote to be reconsidered was taken. ○ It requires a second. ○ It may be debated and it opens up the motion to which it is applied to debate. ○ It requires only a majority vote. ○ It may be made and seconded while other business is pending because of its time limit. However, it is not debated and voted on until the business on the floor is completed. ○ All action that might come out of the original motion is stopped at the time that reconsider is made and seconded. This is the main value of the motion, and it should be made as quickly as the situation calling for it is recognized.
Amend a Motion	<p>Change the wording to make it clearer, more complete, or more acceptable before the motion is voted upon. The amendment must be germane to the motion on the floor to be in order. Adoption of the amendment does not adopt the motion. If the group votes “no” on the amendment, the motion is on the floor in its original wording.</p>
Amend an Amendment	<p>First amendment is called the primary and the amendment to the amendment is the secondary amendment. Only two amendments may be pending at any time. First vote on the amendment to the amendment (secondary), then vote on the original amendment (primary), then vote on the main motion. Amendments require a majority vote.</p>
Friendly Amendments	<p>Change in wording to enhance the original motion – can be changed by general consent.</p>
Hostile Amendments	<p>Gives a different meaning to a motion and may defeat the intent of the main motion.</p>
To Commit or Refer a Motion	<p>Sends the question to a small group (committee) to be studied and put into proper form for the group to consider. Motion includes specific directions as to where the question ought to go (what committee). Motion can be applied to any main motion with any amendments that may be pending. It must be seconded, it can be debated, and requires a majority vote.</p>
Postpone	<p>Delays action on a question until later in the same meeting or until the next meeting. A motion cannot be postponed further than the next regular meeting. Can be applied to all main motions, it must be seconded, it can be debated, it can be amended (as to time of the postponement), it requires a majority vote. Motion is called up automatically when the time to which it was postponed arrives (place under Unfinished Business on agenda of next meeting).</p>
Limit Debate	<p>Motion to exercise special control over debate – reducing the number and length of speeches allowed. Used with any motion, must be seconded, is not debatable, can be amended (but only as to the length of speeches or when the vote will be taken), requires 2/3 vote, vote must be taken by show of hands or a rising vote in a large group. (Need a timekeeper and timer if speeches have a time limit.)</p>
Previous Question	<p>The motion used to cut off debate and to bring the group to an immediate vote on the pending motion. (Call the question for an immediate vote). Previous question can be ruled out of order if the motion is debatable and has not received debate. Motion requires 2/3 vote (by show of hands or standing vote). Not debatable.</p>
Postpone Indefinitely	<p>Lowest-ranked subsidiary motion is used to kill a main motion. It avoids a direct vote on the question on the floor. Shouldn't be used.</p>
Lay on the	<p>Highest-ranked subsidiary motion. Cannot be amended or debated. It is out of order when used</p>

Table	to “kill or avoid dealing with a measure”. Was designed as a courtesy motion to allow a group to set aside a question for something more important, such as arrival of a speaker.
Withdraw a Motion	Permission to withdraw a motion allows a member who realizes he has made a hasty or ill-advised motion to withdraw it with the consent of the group. This device saves time in disposing of the motion. The presiding officer usually handles the request by use of general consent.
Dilatory Tactics	A dilatory tactic is the misuse of parliamentary procedure to deliberately delay or prevent action in a meeting. It is the duty of the presiding officer to prevent a dissident minority from misusing legitimate forms of motions to obstruct business. Such motions should be ruled out of order or those members engaged in such game playing should not be recognized.

TYPES OF VOTES

Majority Vote	<ul style="list-style-type: none"> • More than half of the votes cast. • The minority has the right to be heard, but once a decision has been reached by a majority of the members present and voting, the minority must then respect and abide by the decision.
Silence is Consent	Those members who do not vote, agree to go along with the decision of the majority by their silence.
Two-thirds Vote	A two-thirds vote is necessary whenever you are limiting or taking away the rights of members or whenever you are changing something that has already been decided. A two-thirds vote has at least twice as many votes on the winning side as on the losing side. A show of hands should be taken for <i>all</i> motions requiring a <i>two-thirds vote</i> . If a motion requires a two-thirds vote, the Chairman should inform the group of that.
General Consent	Is an informal agreement of the group, the method in which action is taken without a formal vote or on occasion without a motion. The Chairman initiates the procedure to expedite business. Usually done to approve and correct the minutes. <ul style="list-style-type: none"> • The presiding officer always pauses after asking if there is any objection. If there is <i>any</i> objection, the matter is put to a vote in the usual way. • A member may object because he feels it is important to have a formal vote and dispel any suspicion of railroading.
Tie Vote	Is a <i>lost</i> vote because a majority was not obtained. The <i>Chairman is not compelled to break a tie</i> . While the Chairman has a right to vote as a member, it is recommended he not vote unless the vote is by ballot. He may also vote in cases where the vote would change the result. The Chairman should appear impartial.

TOWN MUNICIPAL CODE
PERTAINING TO CONSTRUCTION BOARD OF
APPEALS AND ADJUSTMENTS

TITLE 15 – BUILDING AND BUILDING CODES – Chapter 1 – OFFICIAL CONSTRUCTION CODE

ARTICLE 1. ADMINISTRATION ^[3]

[Section 15-1-100. Amendments.](#)

[Sections 15-1-101—15-1-111. Reserved.](#)

[Section 15-1-112. Board of appeals.](#)

Section 15-1-100. Amendments.

The following amendments shall be incorporated as definitions for all construction codes:

1. *Jurisdiction or municipality.* Whenever "jurisdiction or municipality" occurs, substitute "Town of Hilton Head Island."
2. *Department of law or corporate council.* Whenever "department of law or corporate council" occurs, substitute "town legal department."
3. *Chief appointing authority of the municipality.* Whenever "chief appointing authority of the municipality" occurs, substitute "town manager."
4. *Department of building safety.* Whenever "department of building safety" occurs, substitute "community development department inspection/compliance section."

(Ord. No. 2008-22, 9-2-2008)

Sections 15-1-101—15-1-111. Reserved.

(Ord. No. 2008-22, 9-2-2008)

Section 15-1-112. Board of appeals.

Section 15-1-112.1 General. There is hereby established a board to be called the construction board of adjustments and appeals, which shall consist of nine (9) members and two (2) alternates. The board shall be appointed by town council.

Section 15-1-112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

Section 15-1-112.3 Qualifications. The construction board of adjustments and appeals shall consist of nine (9) members and two (2) alternates. Such board shall be composed of one (1) South Carolina registered architect, one (1) South Carolina licensed general contractor, one (1) South Carolina registered engineer, one (1) South Carolina licensed mechanical contractor (heating and air conditioning), one (1) South Carolina licensed plumbing contractor, one (1) South Carolina registered electrical engineer, one (1) South Carolina licensed electrical contractor and two (2) members at-large from the building industry. The said board shall be appointed by the town council. In addition to the regular members, there shall be two (2) alternate members; one (1) member at-large from the building industry and one (1) member at-large from the electrical industry. Board members shall be appointed for four-year terms. No member may serve more than two (2) successive terms, except for extraordinary circumstances where town council believes it to be in the best interest of the community to have a continuation, for a specified period, of a particular member of the board.

Section 15-1-112.4 Quorum and voting. A simple majority of the board shall constitute a quorum. The concurring vote of five (5) members of the construction board of adjustment and appeals shall be necessary to reverse any action, order, requirement, decision, or determination of the building official. If the required number of votes is not obtained, the action, order, requirement, decision or determination of the building official shall stand. For votes on any other matter, the affirmative votes of the majority present

shall be required. In the event that regular members are unable to attend the meeting, alternative members, if substituted, shall vote.

Section 15-1-112.5 Fee. A fee of seventy-five dollars (\$75.00) shall accompany application for appeal.

(Ord. No. 2008-22, 9-2-2008)

FOOTNOTE(S):

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Note—The provisions of the latest edition of International Building Code—Chapter 1 Administration shall govern the administration of all construction codes adopted by the Town of Hilton Head Island with the exception of Section 101.4.1 Electrical, Section 101.4.5 Property Maintenance and Section 112 Board of Appeals. ([Back](#))

TITLE 2 – GENERAL GOVERNMENT AND ADMINISTRATION

Chapter 13 BOARDS AND COMMISSIONS ^[4]

[Sec. 2-13-10. Establishment.](#)

[Sec. 2-13-20. Board defined.](#)

[Sec. 2-13-30. Appointments to boards—Procedures.](#)

[Sec. 2-13-40. Same—Criteria for selection.](#)

[Sec. 2-13-50. Attendance at meetings.](#)

[Sec. 2-13-60. Minutes or records.](#)

[Sec. 2-13-70. Vacancies, removals from office.](#)

[Sec. 2-13-80. Reporting to council.](#)

Sec. 2-13-10. Establishment.

Council may establish boards and commissions for the purpose of obtaining maximum citizen participation in town government and for the further purpose of benefiting from the unique expertise and talent of the residents of Hilton Head Island through their participation as members on these boards and commissions.

(Ord. No. 83-5, 9-26-83)

Sec. 2-13-20. Board defined.

The term "Board" shall include any town board or commission appointed by or on recommendation of the town council.

(Ord. No. 83-5, 9-26-83)

Sec. 2-13-30. Appointments to boards—Procedures.

- (a) *Nomination.* Council shall solicit volunteers and nominations for individuals to serve on boards through appropriate means of announcement and advertisement in the community generally. Council shall welcome suggestions for appointees from incumbent members of the boards or members of government generally. However, the responsibility for ascertaining the most qualified individual to fill a position rests solely with council.
- (b) *Recommendations to council.* A committee may be established whose responsibility shall include the review of qualified volunteers and/or candidates to serve on the various boards and commissions created hereunder and recommending to council the most qualified appointees for same.
- (c) *Review and vote.* Council may meet in executive session to review the recommendation for a position. A majority vote of council, in open session, is needed to appoint a nominee.
- (d) *Public announcement.* Council shall publicly announce all appointments to boards and commissions.

(Ord. No. 83-5, 9-26-83; Ord. No. 89-5, § 1, 3-6-89; Ord. No. 93-34, § 6, 12-6-93)

Sec. 2-13-40. Same—Criteria for selection.

- (a) *Enumerated.* Council shall consider the following factors in selecting individuals to serve on town boards:
 - (1) Demonstration of knowledge and experience relevant to the needs of the particular board.

- (2) Inclusion on each board of individuals with a diverse representation of backgrounds, professions and viewpoints so as to secure, wherever possible, a broad cross-section of approach to particular areas involved.
 - (3) Consideration shall be given to potential appointees of age and economic circumstance in an effort to secure a broad spectrum of interest within the various boards.
 - (4) Inclusion on all boards wherever possible or feasible, individuals of both male and female gender, diverse racial background so as to secure a broad cross-section of membership on the various boards.
 - (5) The various geographic area of Hilton Head Island shall, wherever possible or feasible, be represented on the boards to be appointed.
 - (6) Registration to vote in the town, unless special qualifications are needed to serve on technical boards.
- (b) *Length of time served.* In making the foregoing appointments it is the intention of the town council not only to call upon the skills and expertise of established community leaders, but also to invite and involve younger and less prominently known members of the community to make a contribution to their local government. It is the stated policy of the town council that wherever possible they shall involve as many individuals on the boards as can be effectively utilized. To that end, no person shall be appointed to a board who has already served two (2) successive full terms on that board except for extraordinary circumstances where council believes it to be in the best interest of the community to have a continuation for a specified period of a particular member of a board. This limitation shall not prevent any person from being appointed to the same board after an absence of one (1) year.
 - (c) *Conflicts of interest.* In making appointments to the various boards, council shall seek to avoid conflicts of interest and shall with that end in mind make proper inquiry of prospective appointees to avoid possible conflicts of interest questions. Employees or members of the various departments of town government shall not be appointed to any board which oversees their operations.
 - (d) *Equal opportunity.* No individual shall be excluded from membership on any town board for reasons of his or her sex, age, race or religious beliefs.
 - (e) *Dual office holding.* In making appointments to town boards, the council shall observe the state prohibition as may be then in effect regarding the holding of dual office.

(Ord. No. 83-5, 9-26-83; Ord. No. 89-5, § 2, 3-6-89)

Sec. 2-13-50. Attendance at meetings.

- (a) *Active participation.* Council intends to select appointees who will participate actively on the boards to which they are appointed and will not reappoint, but will under certain circumstances replace, those who do not.
- (b) *Attendance keeping.* The chairman of each board shall be responsible for keeping the record of attendance of each scheduled meeting of his board.
- (c) *Replacing board members.* Council shall remove any board member who fails to attend three (3) meetings without being excused in advance by the chairman. Excessive absences, even though excused, may constitute cause for removal.

(Ord. No. 83-5, 9-26-83; Ord. No. 89-5, § 3, 3-6-89)

Sec. 2-13-60. Minutes or records.

The chairman of each board shall keep, or cause to be kept, a complete written record of all of the activities of each board, including minutes of all meetings.

(Ord. No. 83-5, 9-26-83)

Sec. 2-13-70. Vacancies, removals from office.

- (a) *Vacancies.* Vacancies on any board or commission appointed by town council shall be filled by appointment of the town council for the unexpired term of the membership vacated. In the event a vacancy occurs prior to the midpoint of a member's term, the successor member shall complete the unexpired term and shall be credited with serving one (1) full term. For vacancies filled after the midpoint of a member's term, the successor member shall complete the unexpired term but shall not be credited with serving a full term and may, thereafter, serve two (2) full terms.
- (b) *Removal from office.* The town council may remove any member of any board or commission appointed by the town council for cause, utilizing the following procedure:
- (1) Upon affirmative vote of a majority of the town council to remove any member of any such board or commission for cause, the town council shall notify the board or commission member so removed of his removal, and the reasons therefor.
 - (2) The letter shall be mailed to the board or commission member by "certified mail return receipt requested" directed to the address on the board or commission member's application.
 - (3) The letter shall further notify the board or commission member so removed that he has been removed for cause, and that he is entitled to a public hearing on the removal and the stated reasons therefor, but that the right to said public hearing shall be waived unless the board or commission member shall request in writing a public hearing within ten (10) days from the date of the receipt of the letter from the town council notifying the board or commission member of his removal.
 - (4) If the written request for a public hearing is not delivered to town hall on or before the close of business on the tenth (10th) day following delivery of the letter of removal, the removal shall become final.
 - (5) Once the removal of any board or commission member has become final, the mayor shall notify the chairman, or acting chairman, of the affected board or commission of the removal.
 - (6) Any vacancy on any board or commission created by a removal under this section shall be filled by the town council as provided in subsection (a), supra.

(Ord. No. 83-5, 9-26-83; Ord. No. 93-34, § 5, 12-6-93; Ord. No. 94-10, § 1, 5-2-94)

Sec. 2-13-80. Reporting to council.

- (a) *Attendance records.* The chairman of each board shall file attendance records of the board for the preceding twelve (12) months with the town council by April 30th each year.
- (b) *Minutes.* The chairman of each board shall file a copy of meeting minutes with the town council.
- (c) *Annual report.* The chairman of each board shall prepare and file with the town council an annual report by April 30th each year. This report shall include the board's action pursuant to the stated purpose for which it was created and progress toward its own goals.

(Ord. No. 89-5, § 4, 3-6-89)

FOOTNOTE(S):

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Cross reference— Jury commissioners, § 6-1-313; electrical appeals board, § 15-1-334; planning commission, § 16-2-205 et seq.; board of zoning appeals, § 16-2-300 et seq. [\(Back\)](#)

TITLE 15 – BUILDING AND BUILDING CODES – Chapter 9 – FLOOD DAMAGE CONTROLS

ARTICLE 6. VARIANCES

[Sec. 15-9-611. Requirements for variances.](#)

[Sec. 15-9-612. Hearing.](#)

[Sec. 15-9-613. Fee.](#)

[Sec. 15-9-614. Notice of possible increased insurance cost.](#)

Sec. 15-9-611. Requirements for variances.

Upon the submission of a written application to the town construction board of adjustments and appeals, a variance may be granted permitting the erection of structures with a lowest floor elevation, including basement, lower than regulatory flood elevation if all of the following are met:

- (1) a. The property on which the structure is to be erected is an isolated lot of one-half acre or less, with all contiguous existing structures constructed below such required first floor elevation; or
- b. A structure listed on the National Register of Historic Places or a state inventory of history places is to be restored or reconstructed.
- (2) Good and sufficient cause exists for the granting of the variance.
- (3) Failure to grant the variance would result in exceptional hardship to the applicant.
- (4) The issuance of the variance would not result in increased flood heights, additional threats to public safety or extraordinary public expense.
- (5) The variance would not have the effect of nullifying the intent and purpose of the chapter.

(Ord. No. 01-07, § 1, 6-5-01)

Sec. 15-9-612. Hearing.

- (a) All applications for variances shall be heard by the construction board of adjustments and appeals.
- (b) Prior to the granting of a variance the construction board of adjustments and appeals must find that justifications exist in accordance with the terms of this chapter. These findings together with the granting of a variance, shall be reduced to writing, and may be a part of the public record. All variances shall pertain to the particular parcel of land and apply only to the proposed structure set forth in the variance and application.
- (c) Such variance shall be freely transferable with the land and shall not be personal to the applicant.
- (d) Unless otherwise provided therein, a variance shall be valid for a period of one (1) year after the date of its issuance. If construction has not commenced pursuant thereto within such time, said variance shall become void. Lapse of a variance by the passage of time shall not preclude subsequent application for variance.
- (e) No variance except herein specifically permitted may be granted from the provisions of this chapter. The variance procedures herein provided shall be the exclusive method for obtaining variances under the provisions herein.

(Ord. No. 01-07, § 1, 6-5-01)

Sec. 15-9-613. Fee.

Each written application for a variance shall be accompanied by a fee of seventy-five dollars (\$75.00). Such application shall reflect the type of structures for which a variance is sought, the size of such structures, the approximate location upon the parcel and intended use thereof and the reasons for which the variance is being sought.

(Ord. No. 01-07, § 1, 6-5-01)

Sec. 15-9-614. Notice of possible increased insurance cost.

Any applicant to whom a variance is granted shall be given notice that the proposed structure will be located in the floodprone area. The structure will be permitted to be built with a lowest flood elevation below the regulatory flood elevation, and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced first floor elevation.

(Ord. No. 01-07, § 1, 6-5-01)



INTERNATIONAL BUILDING CODE
A Member of the International Code Family

IBC

[A] 104.9.1 Used materials and equipment.

The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless *approved* by the *building official*.

[A] 104.10 Modifications.

Wherever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

[A] 104.10.1 Flood hazard areas.

The building official shall not grant modifications to any provision required in *flood hazard areas* as established by [Section 1612.3](#) unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of [Section 1612](#) inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the *design flood elevation* and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the *design flood elevation* increases risks to life and property.

[A] 104.11 Alternative materials, design and methods of construction and equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, *fire resistance*, durability and safety.

[A] 104.11.1 Research reports.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

[A] 104.11.2 Tests.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

SECTION 105 PERMITS

[A] 105.1 Required.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*.

[A] 105.1.1 Annual permit.

In lieu of an individual *permit* for each *alteration* to an already *approved* electrical, gas, mechanical or plumbing installation, the *building official* is authorized to issue an annual *permit* upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the *permit*.

[A] 105.1.2 Annual permit records.

The person to whom an annual *permit* is issued shall keep a detailed record of *alterations* made under such annual *permit*. The *building official* shall have access to such records at all times or such records shall be filed with the *building official* as designated.

[A] 105.2 Work exempt from permit.

Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. *Permits* shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m²).