

CITY OF CLEARWATER
BUILDING/FLOOD BOARD OF ADJUSTMENT AND APPEALS
RULES OF PROCEDURE

ARTICLE I. BOARD NAME AND PURPOSE

The name of this board shall be the "Building/Flood Board of Adjustment and Appeals," hereinafter referred to as the "Board." The Board shall be governed by these Rules of Procedure; for any matters not covered by these Rules, the current edition of Robert's Rules of Order shall govern.

ARTICLE II. AUTHORITY AND JURISDICTION

The purpose of the Board is to hear and determine certain applications for variances from the provisions of the flood insurance regulations and standard technical codes of the City, to hear and determine certain appeals from the Building Official's decision or interpretation, and to hear and determine certain appeals in unsafe building and housing cases. The Board shall have such jurisdiction and powers as are set forth in Community Development Code Part II, Building and Development Regulations, Chapter 47, Buildings and Building Regulations, Article II.

ARTICLE III. MEMBERS AND OFFICERS

Section 1. Members

The City Manager shall appoint five members and fill any vacancies for unexpired member terms, members having such qualifications as are specified in the Community Development Code. The length of a member's term shall be four years. The City Manager shall also appoint an alternate member who shall serve at the pleasure of the City Manager for a four year term.

Section 2. Officers

The Board shall annually elect a Chair and a Vice-Chair at its meeting in April. All officers shall serve a one-year term and may be re-elected by the Board. Should the Chair or Vice-Chair not be able to serve out the entirety of a term, the Board shall hold an election to fill the vacancy of the office. The newly elected officer shall serve only until the next regular election of officers.

Section 3. Duties of Officers

The Chair shall preside at all meetings of the Board and shall have the duties normally conferred upon the office by parliamentary rules. The Chair shall have the privilege of discussing all matters before the Board and shall have the same voting rights as other Board members. If the Chair is absent from a meeting, the Vice-Chair shall preside at the meeting and perform all of the functions of the Chair. If both the Chair and Vice-Chair are absent from a meeting, the attending members of the Board shall select a member to preside at that meeting.

Section 4. Staff and Legal Advisor to the Board

The Planning and Development Department shall serve as staff to the Board and shall provide it with the necessary professional support to carry out its duties.

The City Attorney's Office shall provide legal representation to the Board to assist it in its responsibilities.

ARTICLE IV. CONDUCT OF MEETINGS

Section 1. Meetings

The Board shall meet on the first Tuesday of each month beginning at 2:00 p.m. in the City Council Chambers, City Hall, unless otherwise prescribed. All meetings of the Board are open to the public and shall be properly noticed in accordance with applicable Florida law, the Community Development Code, and any adopted Codes.

Special meetings may be called by the Chair or any member of the Board by notification to the staff liaison to the Board, who shall determine a date and time for the special meeting and poll members to see whether a quorum can be met.

The Board shall meet within 45 calendar days after a notice of appeal has been received.

Section 2. Quorum and Voting

A simple majority of the membership of the Board (i.e., 3 members) shall be necessary to constitute a quorum. A vote of three (3) members is required to conduct routine business of the Board. In varying any provision of the technical codes, the affirmative vote of not less than three (3) Board members shall be required. In modifying a decision of the building official, the affirmative vote of not less than four (4) Board members shall be required. [Sec. 47.032(1)]

In the event all regular members of the Board are present, the alternate member shall have all rights and responsibilities of a regular Board member, except for the right to vote. In the absence of a regular Board member at a Board meeting, or during an agenda item when a regular Board member cannot vote due to a conflict of interest, the alternate member shall also have the right to vote.

Section 3. Conflict of interest

Any Board member who has a conflict of interest due to a special private gain or loss shall announce the conflict prior to the beginning of the hearing on the application and must abstain from discussion and voting on that item. The member must also file the conflict of interest disclosure statement as required by Florida Statutes within fifteen days of the meeting. On all other matters where a member does not have a conflict of interest, a member must vote on the matter.

Section 4. Order of meeting

Meetings shall generally be conducted according to the following order:

Call to Order
Roll Call
Opening Comments by Chair
Approval of Minutes
Continued Requests
New Requests
Director/Building Official Items
Adjourn

ARTICLE V. REVIEW OF APPLICATIONS AND APPEALS

Applications before the Board shall be reviewed in a quasi-judicial hearing open to the public and duly noticed. Witnesses shall give testimony under oath. The order of the hearing shall be as follows; however, the Chair and members of the Board may ask questions at any time during the hearing.

Introduction of the Case by City staff - Introduction shall include: type Application (variance or appeal), the applicable code provision and any applicable code definitions, the Applicant's request (as set forth in the Application), and the City staff's position regarding the Application; however, the City's staff's review and analysis of the Application shall not be presented until the "Presentation by City staff" as set forth in the order below.

Presentation by Applicant (10 minutes maximum)
Presentation by City staff (10 minutes maximum)

Cross Examination of Witnesses by Applicant
Cross Examination of Witnesses by City staff

Comments by the Public (3 minutes maximum)

Closing remarks by City staff (3 minutes maximum)
Closing remarks by Applicant (3 minutes maximum)

Closing of the Public Hearing

Discussion and Vote by the Board

These time limits may be extended by majority vote of the Board members present and voting where warranted by the complexity of the application. Closing remarks shall be limited to a presentation of the issues previously discussed and the speaker shall not be permitted to present new information except to correct inaccuracies presented during the hearing.

ARTICLE VI. BOARD ACTION AND EFFECT OF DECISION

Section 1. Board Decision

The Board shall reach a decision without unreasonable or unnecessary delay. A written Order shall be issued which confirms the Board's decision. The decision shall be promptly filed in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent to the applicant/appellant. The decision shall be effective upon the date of the Board meeting.

Section 2. Reconsideration or Rehearing

A reconsideration or rehearing of a decision of the Board may be requested by the staff or applicant/appellant and must be requested at the next regularly scheduled meeting of the Board. Any party who opposed the reconsideration may address the Board solely in regard to the reasons for reconsideration. A reconsideration or rehearing shall only be granted upon a determination by the Board that its decision was based on a mistake, fraud or misrepresentation. If the Board decides to rehear an application/appeal, notice of the rehearing shall be provided in the same manner as provided for the original application/appeal.

Section 3. Appeal

An appeal of a decision of the Board may be taken as prescribed in the Community Development Code [Sec. 47.034(2)].

ARTICLE VII. AMENDMENT TO THE RULES OF PROCEDURE

These Rules of Procedure supersede any previous Rules adopted by the Board. The Board may amend these Rules of Procedure from time to time as is required. All amendments shall require the affirmative vote of three members of the Board.

Originally adopted this 12th day of December, 2011.

CITY OF CLEARWATER
BUILDING/FLOOD BOARD OF ADJUSTMENT AND APPEALS
MEETING PROCEDURES

I. OPENING COMMENTS BY CHAIR

This meeting of the Building/Flood Board of Adjustment and Appeals is called to order on _____.

To ensure a complete record of the Board's actions, we ask that each individual wishing to speak, including the applicant, speak into the microphone at the podium in front of us, clearly state your name and spell your last name for the Clerk.

Florida Statutes Section 286.0105 requires any party appealing a decision of this Board to have a record of the proceedings to support such an appeal.

Code of Ordinances Section 47.034 provides that decisions of this Board shall be final, subject to judicial review in the Circuit Court or to review by the Countywide Board of Adjustment and Appeals.

Now I will ask all those in attendance today who plan to speak to please rise and be sworn in by the Clerk.

II. APPROVAL OF THE MINUTES

Our first order of business is to review and approve the minutes from the last meeting.

May I have a motion for approval of the minutes?

III. REGULAR AGENDA

The Board's cases are considered quasi-judicial hearings. In such a hearing, the Board reviews the application, staff report, correspondence, and all testimony and exhibits presented today and makes a final decision, subject to appeal. Witness testimony shall be under oath. [Have Clerk's representative swear in any witnesses not previously sworn.]

The case will proceed as follows:

Presentation by Applicant (10 minutes maximum)

Presentation by City staff (10 minutes maximum)

Cross Examination of Witnesses by Applicant

Cross Examination of Witnesses by City staff

Comments by the Public (3 minutes maximum)

Closing remarks by City staff (3 minutes maximum)

Closing remarks by Applicant (3 minutes maximum)

Closing of the Public Hearing

Discussion and Vote by the Board

Our first case today is....

The time limits above may be extended by majority vote of the Board members present and voting where warranted by the complexity of the application.

[NOTE: Code of Ordinances Section 47.033 states that procedures for appeals from decisions of the Building Official relating to unsafe buildings, structures and service systems shall be as provided in the Standard Unsafe Building Abatement Code adopted in Section 47.051. Section 403 of the Standard Unsafe Building Abatement Code provides: "The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his appeal. The appellant may appear at the hearing in person or through his attorney or other designated representative." The procedure above meets these requirements.]

IV. DIRECTOR'S/BUILDING OFFICIAL'S ITEMS

Do the Planning Director or Building Official have any items for our discussion today?

V. ADJOURNMENT

This Board is adjourned at _____ (time). Thank you.