

CHAPTER 296
Construction Board of Appeals

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CROSS REFERENCES
State Construction Code - see B. & H. Ch. 1420

296.01 CREATION AND COMPOSITION; QUALIFICATIONS.

(a) That there be and hereby is established a Construction Board of Appeals which shall consist of three (3) members to be appointed for 3-year terms by the Mayor with the concurrence of the City Council as follows: one for three years, one for two years and one for one year. Thereafter, each new member shall serve for three years or until a successor has been appointed. All terms shall commence on the effective date of the adopting resolution.

(b) Construction Board of Appeals members shall be qualified by experience or training to perform the duties of members of the Board of Appeals.

(c) The Board members shall elect the chairperson from its membership.

(d) Secretary. The Mayor, with the concurrence of the City Council, shall appoint a qualified person to serve as secretary to the Board. In case of the absence of the secretary, the Board shall appoint one of its members to serve as secretary. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

(e) Compensation of members and the secretary, if any, shall be established by resolution of the City Council.

(Res. 2015-81. Passed 11-9-15.)

296.02 APPEAL PROCEDURE.

If the City Building Department refuses to grant an application for a building permit, or if the enforcing agency makes any other decision related to enforcement of construction codes and/or the Construction Code Act (generally, the "Code" adverse to

an interested person, that person, or the person's agent, may appeal in writing to the Construction Board of Appeals.

(Res. 2015-81. Passed 11-9-15.)

296.03 TIME FOR APPEAL.

(a) Failure of the City Building Department to grant, in whole, or in part, or deny an application for permit within a maximum of 15 days, is deemed a denial of the application for purposes of authorizing the institution of an appeal. Appeals from adverse determinations by the City Building Department, or from the failure or refusal to grant, in whole or in part, an application for permit, may be taken at any time not otherwise prohibited by law.

(b) Postponed Hearing. When three members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing,

(Res. 2015-81. Passed 11-9-15.)

296.04 PROCEDURE.

The Construction Board of Appeals shall conduct all hearings and other business in compliance with Act No. 267 of the Public Acts of 1976. Notice of meetings shall be posted at the City offices and shall be posted within 18 hours of any special meeting held for that purpose. Minutes of each meeting shall be kept, indicating the date, time and place of the meeting, as well as a description of all business conducted therein, including all votes taken and the manner in which each member voted.

(Res. 2015-81. Passed 11-9-15.)

296.05 NOTICE TO INTERESTED PARTIES.

(a) The Construction Board of Appeals shall hear appeals and requests for variances without undue delay. The Board of Appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the City Building Department from whom the appeal was taken not more than 15 days after submission of the appeal. Failure by the Board of Appeals to hear an appeal and file a decision within the time limit provided is a denial for purposes of authorizing an appeal to the State Construction Code Commission.

(b) Interested parties in an appeal or variance proceeding must be properly notified of the hearing and be given reasonable notice of hearing. The notice should include:

- (1) A statement of the date, hour, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

- (3) A reference to the particular section of the statutes, rules, or code involved;
 - (4) A short statement of the matters asserted.
- (Res. 2015-81. Passed 11-9-15.)

296.06 VARIANCES FROM THE CODE.

The Construction Board of Appeals may grant a specific variance from substantive requirements of the Code if the literal application of the substantive requirements would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

- (a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the Code of that particular item or part for the health, safety and general welfare of the people of this state.
 - (b) The specific condition justifying the variance shall be neither so general or recurrent in nature as to make an amendment of the Code with respect to the condition reasonable practical or desirable.
 - (c) The Construction Board of Appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license, and certificate granted on the basis of it.
 - (d) In no case shall more than minimum variance from the Code be granted than is necessary to alleviate the exceptional, practical difficulty.
- (Res. 2015-81. Passed 11-9-15.)

296.07 DECISIONS.

The Board shall modify or reverse the decision of the code official by a concurring vote of two members. Decisions of the Construction Board of Appeals shall be made in writing with a statement of reasons for the decision. A record of decisions made by the Construction Board of Appeals, properly indexed, shall be maintained at the City Office.

(Res. 2015-81. Passed 11-9-15.)

296.08 APPEAL TO COMMISSION.

An interested person may appeal a decision of the Construction Board of Appeals to the State Construction Code Commission within fifteen (15) business days after filing of the decision with the City Building Department. In the case of an appeal because of failure of the Construction Board of Appeals to act within the prescribed time, an interested party may appeal to the Commission at any time before filing of the decision.

(Res. 2015-81. Passed 11-9-15.)

296.09 INTERPRETATION OF CHAPTER.

In the case of conflict between this Chapter and any resolution or other ordinance, the provisions of this Chapter shall control. The catch line headings which precede each paragraph of this Chapter are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Chapter.

(Res. 2015-81. Passed 11-9-15.)