

TILLAMOOK COUNTY

BOARD OF APPEALS

BY-LAWS

Preamble

The objective of establishing a Board of Appeals is to create a body to hear appeals relating to the building codes, as they are being interpreted and enforced by the Building Official, and render decisions solely on the merits of the questions without the influence of an perceived political considerations.

The Board of Appeals is neither empowered to make law nor to grant exceptions to existing law. It should conduct a fair, impartial hearing, render findings, and base its decision upon the provisions of the code from which the appeal is taken.

Members should keep in mind that the appeal process substitutes their professional discretion for that of the Building Official; however, authority of the Board is limited to dealing with the following matters:

1. Determining suitability of alternate materials.
2. Determining the suitability of methods of construction.
3. Determining the need for abatement, repair or demolition.

The building codes are complex and diverse documents. Much of their content is written to be performance oriented. It is inconceivable that they can be continuously administered without challenge by impacted parties or without a request for professional evaluation and advice sought by the enforcing officials. Consequently, members of the Board of Appeals serve an important community role by assuring a process for consistent, unbiased administration of the codes as enacted by the legislative body.

As with any such deliberative body, it is imperative that all members understand and adhere strictly to those rules and procedures that have been devised to assure legality, impartiality, reasonableness, appropriate notice and due process. This manual is dedicated to assisting all parties to accomplish those ends.

Purpose

The Board of Appeals provides an official forum to hear and decide appeals of orders, decision, or determinations made by the Building Official relative to the application and interpretation of the Building Codes administered by Tillamook County.

Scope

The Board of Appeals shall be limited to matters falling under the authority of the Building Official in the administration and enforcement of the building codes, and to such other duties as are specifically delegated to them by the Board of County Commissioners.

Powers

The Board of Appeals shall have the power of that official from whom an appeal is taken in making proper determinations and decisions and issuing orders or requirements regarding suitability of alternate material and methods or the reality of a structural abatement, repair or demolition.

The Board shall provide reasonable interpretations of the provisions of the building codes.

All actions of the Board must conform to the terms of ordinances and codes as adopted by the County and the State and administered by the Building Official.

The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of the codes nor shall the Board be empowered to waive requirements of the codes.

Authority

The Board of Appeals derives its authority for the State of Oregon Structural Specialty Code, Section 105 and the Uniform Code for the Abatement of Dangerous Buildings, Section 205.

Appellant Responsibilities

1. Review the applicable County Ordinance in order to become familiar with ordinance requirements relating to appeals.
2. File appeal with the Building Official within thirty (30) days from the date of the written decision of the Building Official.
3. The written appeal shall include the following;
4.
 - The name and address of the appellant;
 - The address of the parcel that is the subject of the decision;

- The map and tax lot number of the parcel;
- The date of the decision;
- The nature of the decision of the Building Official
- A statement of the applicable code section and the specific grounds for the appeal.

STAFF RESPONSIBILITIES

1. Notify chairperson of receipt of appeal.
2. Review with chairperson potential dates and locations of meeting.
3. Prepare staff report.
4. Prepare packets containing the following for all board members, the appellant, and relevant staff.
 - Chairperson's letter of meeting notice
 - Copy of appeal
 - Copy of rules of procedures
 - Copy of public notice
 - Written staff report
 - Written appellant report
5. Cause a public meeting notice to be published in a newspaper of general circulation in the County after authorization by chairperson.
6. Prepare meeting room.
 - Notice of hearing for door of hearing room.
 - Table and chairs for board and staff
 - Chairs for witnesses
 - Seating for public
 - Tape recorder
 - Roll call sheets for voting
7. Secure meeting room after hearing.
8. Provide written minutes.
9. Distribute minutes to all interested parties.

BOARD MEMBER RESPONSIBILITIES

1. Review limits of authority as specified in this document.
2. Review rules of procedure.
3. Thoroughly review the appeal and reports prior to the meeting.
4. Be aware of the need to support conclusions with logical reasoning (findings based on fact).

BOARD CHAIRPERSON RESPONSIBILITIES

1. Review rules of procedure prior to meeting.

2. Conduct meeting within rules of procedures.
3. Declare conflicts of interest.
4. Ask for any challenges.

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Order of Procedure for Public Hearing and Decision

- I. Actions Preliminary to Hearing
 - a. Chairperson directs secretary to circulate attendance record.
 - b. Chairperson directs that all persons presenting testimony give their name and address for the record.
 - c. Chairperson explains to all parties that the appeal will be read and that no other issues will be heard except as addressed by the appeal.
 - d. Chairperson asks for declaration of conflicts of interest of board members.
 - e. Chairperson may limit testimony at any time during the hearing.
 - f. A quorum of the board will be 3 members. All votes to abstain will be considered a yes vote. The chairperson will vote on all matters and all votes will be verbal. If at any time during the hearing, a Board member must leave, the hearing will continue.
- II. Announcement of the Public Hearing
 - a. Chairperson announces:
 1. Hearing shall come to order.
 2. This is the time and place set for a hearing of an appeal by _____ regarding _____.
 3. Read the appeal into the record.
 - b. Chairperson requests that the appellant come forward.
- III. Staff Presentation
 - a. Chairperson directs staff to present report(s).
 - b. Chairperson notes for the record the reports and supporting documents received as testimony.
 - c. Chairperson and board given opportunity to question staff and discuss submitted reports and documents.
- IV. Appellant Presentation
 - a. Chairperson directs appellant to present report.

- b. Chairperson notes for the record the reports and supporting documents received as testimony.
- c. Chairperson and board may question appellant and discuss submitted reports and documents.

V. Public Testimony

- a. Chairperson calls for testimony from the public.
 - 1. Proponents
 - 2. Opponents
 - 3. Neutral testimony
- b. Chairperson notes for the record the comments and supporting documents received as testimony from public.
- d. Chairperson and board may question public and discuss submitted comments and documents (may wish to do so after each individual has testified).

VI. Rebuttal

- a. Chairperson requests rebuttal from staff.
- b. Chairperson request rebuttal from appellant.
- c. Chairperson and board may question all parties and discuss rebuttal testimony

VII. Board Deliberation and Decision

- a. Chairperson announces closure of the public testimony.
- b. Chairperson gives instructions to board members.
 - 1. Consider only those issues raised in the appeal.
 - 2. Official actions will be through motions and voting.
 - 3. Discussion of motions, prior to a vote, should include the reasoning for the motion and the reasoning for each member's vote.
 - 4. Action of the board must not be arbitrary or capricious.
- c. Chairperson calls for deliberative discussions and motions.
- d. Chairperson takes appropriate action on motions.
- e. Chairperson summarizes board decisions.
- f. Chairperson directs secretary to prepare and distribute board's decision to all interested parties.

BOARD OF APPEALS
Suggested Agenda

- I. Roll call
- II. Election of chairperson and vice-chairperson (if first meeting of calendar year).
- III. Discussion of appeal with regard to established criteria.
- IV. Decision by board to grant a hearing or to dismiss the appeal (if appeal is dismissed, items V and VI will be omitted).
- V. Public hearing (see Order of Procedure).
- VI. Unfinished business.
- VII. Adjournment.

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