



BOARD OF BUILDING STANDARDS AND APPEALS RULES, POLICIES, & PROCEDURES

Revised March 21, 2024

I. PURPOSE

The purpose of the Board of Building Standards and Appeals ("Board") is to:

- Hear and determine appeals on all matters arising under ordinances or regulations pertaining to the design, construction, alteration and demolition of buildings.
- Hear and determine appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the building regulations of the City of New Orleans ("City").

II. MEETINGS

The Board shall meet when called:

- By the Chair to consider appeals which meeting shall be considered a regular meeting; or
- By the Director of the Department of Safety and Permits ("Director") for the transaction of such business as designated.

When notified by the Director, the Board shall meet for the purpose of recommending appropriate changes in the Building Code as may be deemed necessary, and then refer the same to the City Council for consideration and action. Meetings shall not occur more than twice per calendar month in any given year.

A. Regular & Special Meetings

Regular meetings shall be held on a Thursday of each month in the 8th Floor Conference Room, Room 8E10 of City Hall, commencing at 9:30 AM. Alternate locations shall be publicly posted on the first floor of City Hall.

Special meetings of the Board may be called by the Chair or Vice-Chair. Members shall be notified at least forty-eight (48) hours before the time set.

B. Open Meetings

All meetings of the Board shall be open to the public except that an executive session may be held upon the affirmative vote of two-thirds (2/3) of the voting members present taken at an open meeting for which notice has been given pursuant to Louisiana's Open Meetings Law. An executive session shall be limited to matters allowed to be exempted from discussion at open meetings by the Open Meetings Law, provided that no final or binding action shall be taken during such an executive session, nor shall such executive session be used to obviate the purpose of the Open Meetings Law.

The reason for holding an executive session and the vote of each member on the question shall be stated in an open meeting, shall be recorded, and shall be entered into the minutes of the meeting.

Executive sessions may be held for one or more of the following purposes:

1. Discussion of the character, professional competence, or physical or mental health of a person, provided that such person is notified in writing at least twenty-four (24) hours, exclusive of Saturdays, Sundays, and legal holidays, before the scheduled time contained in the notice of the meeting at which such executive session is to take place and that such person may require that such discussion be held at an open meeting. However, nothing in this Paragraph shall permit an executive session for discussion of the appointment of a person to a public body or, except as provided in R.S. 39:1593(C)(2)(c), for discussing the award of a public contract. In cases of extraordinary emergency, written notice to such person shall not be required; however, the public body shall give such notice as it deems appropriate and circumstances permit;
2. Strategy sessions or negotiations with respect to collective bargaining or litigation, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public body;
3. Discussion regarding the report, development, or course of action regarding security personnel, plans or devices;
4. Investigation proceedings regarding allegations of misconduct;
5. Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, or the repelling of invasions, or other matters of similar magnitude; or
6. Any other matters now provided for or as may be provided for by the Legislature.

A majority of Board members present may invite or direct the Director, the Chief Building Official, and/or the City Attorney or their designee(s) as the only non-Board members to appear at a meeting closed to the public. This provision shall not restrict or impair any rights or exemptions set forth by the Open Meetings Law (Executive Session, Exceptions to Open Meetings) of the Louisiana Revised Statutes.

C. Quorum

The majority of the Board's existing members shall constitute a quorum. All actions taken by boards shall require the affirmative vote of the majority of the existing members thereof, provided that regulations may be adopted only upon the affirmative vote of two-thirds of the existing members thereof.

In the absence of a quorum, the docket will be added as Old Business on the next regular docket, unless the Chair or Vice-Chair calls a special meeting in accordance with these rules.

In accordance with Louisiana Revised Statute § 42:14, proxy voting is prohibited, as is polling of Board members.

D. Agendas

A copy of the prepared agenda listing the appeals shall be furnished to the appellant, all interested parties, the Board members, the New Orleans Fire Department's Fire Prevention Division, the Director, the Chief Building Inspector, the Vieux Carré Commission (if applicable), the Historic District Landmarks Commission (if applicable), and any other applicable Departments, and/or entities.

A copy of the agenda shall be posted no less than twenty-four (24) hours prior to the meeting, exclusive of weekends and legal holidays, in the following locations: on the bulletin board or display screen in the City Hall lobby, at the entrance to the Department of Safety and Permits, and on the City's website.

E. Conduct of Meetings

1. Presiding Member

The Chair, Vice-Chair, or in the absence of both, an acting Chair selected by the members present, shall serve as the presiding officer of all Board meetings. The Chair may participate in the discussion, make a motion, and vote on agenda items.

The Chair shall rule on all procedural questions, subject to reversal by a two-thirds (2/3) majority vote.

2. Order of Business

In all meetings, the order of business shall be as described on the Board's Public Meeting Notice. The Chair, with the consent of a majority of the members present, may elect to change such order of business.

3. Parliamentary Procedure

In the absence of any specific provision in these rules, the rules of procedure provided by Robert's Rules of Order shall prevail.

4. Presentation of Appeal

The applicant may appear on their own behalf or be represented by a duly authorized agent. The applicant and/or their duly authorized agent shall state their name and address for the record and who they are representing (if applicable).

5. Public Comment

- a. Before speaking on an agenda item, each person shall state their name and address and who they are representing (if applicable).
- b. Each speaker shall be allowed maximum of five (5) minutes.
- c. Proponents for the agenda item shall speak first for a total of ten (10) minutes, followed by Opponents or other interested parties for a total ten (10) minutes.

- d. This procedure shall be followed except as such time when the Chair or the presiding member shall, with the approval the Board members present, extend such time.

F. Meeting Minutes

All meeting minutes shall be kept and made available for public inspection. Such minutes shall include but need not be limited to:

1. The date, time, and place of the meeting;
2. The members recorded as either present, absent, or recused;
3. The substance of all matters decided, and a record by individual members, or any votes taken; and
4. Any other information that a Board member requests be included or reflected in the minutes.

A recording of each meeting shall be made and kept on file for a period of three (3) calendar years. The recording shall be made available to an individual upon request.

The minutes, written and audio, shall be public records and shall be available within a reasonable time after the meeting, except where such disclosures would be contrary to Louisiana's Public Records Law.

G. Applications

An owner or other interested party may appeal the Director's decision to the Board:

1. If the Director, rejects or refuses to issue a building permit, or to approve the design, mode, manner of construction or materials proposed to be followed or used in the erection and alteration of any such building or structure;
2. When it is claimed that the rulings of the Director or the provisions of the Building Code do not apply, or that a more desirable and equally safe form of construction, from the owner's point of view can be employed in a specific case;
3. Whenever the owner of a building or structure shall object to any decision given by the Director, relative to the extent of damage sustained by any building or structure, by fire or otherwise; or
4. To the extent or value of repairs, alterations or improvements of any existing building or replacement value thereof.

Application fees are outlined in Section 113.6 of the City's Building Code (See Section 26-15 of the City Code).

An appeal must be submitted at least nine (9) business days prior to a Board meeting to be considered at that meeting. The application deadline for a waiver is the last Thursday of the month preceding a Board meeting. Supplemental information is accepted up to 48 hours prior to a Board meeting and may be accepted thereafter at the Chairman's discretion. For any appeal,

the Board's decision shall be rendered without unnecessary delay, and such decision shall be final. A letter conveying the decision shall be emailed and/or mailed to all interested parties.

H. Notice

Notice shall be emailed and/or mailed at least five (5) calendar days prior to the meeting to all interested parties, including but not limited to:

- a. The appellant at the email address and/or address provided on their application;
- b. All owners, if different from the applicant, as provided on the Orleans Parish Assessor's website; and
- c. The Homeowners Association or Condominium Board (if applicable).

The notice shall set forth the date, time, place, and purpose of the public hearing, as well as the name of the applicant and identification of the subject property.

I. Actions

All cases in which application for appeals have been filed timely with the Board shall be heard and the Board shall inform the Director of its decisions, stating the waivers of equivalencies or denials and conditions, if any. The decisions shall specify the equivalency or variance allowed and the rationale and shall be filed in the office of the Director within thirty (30) calendar days after the decision is rendered.

When building conditions are very unusual, requiring a site visit, research and the like, the Chair may grant a reasonable extension of time. Failure to file the decision shall not delay issuance of permits in accordance with a favorable vote so long as conditions attached to the permits are in accord with the action of the Board.

The applicant shall notify the Board in writing if conditions attached to the approval no longer apply to the subject property. The Board shall then request an inspection of the property by the Department of Safety and Permits, to ascertain whether the conditions are no longer required. If confirmed, the representative, appointed by the Director, shall amend the file and the Department shall amend the permit for that property.

Copies of the decision shall be sent to the applicant and all interested parties.

Decisions of the Board shall be signed by the Chair of the Board or, in the Chair's absence, by the Vice-Chair of the Board.

If the Director's order or refusal is affirmed, such order or refusal shall have full force and effect. If the order or refusal is modified or annulled, the Director shall issue a permit in accordance with such decision.

1. Rehearing

In cases when the Board rules against an application, and the applicant subsequently elects to modify their original building plan and submit the modified plan to the Board for

rehearing, the applicant must pay a rehearing fee of \$200.00, which shall be deposited into the City's General Fund.

2. Appeals

An aggrieved party may appeal the Board's decision to the Orleans Parish Civil District Court within thirty (30) days after filing of the decision in the office of the Board.

III. AMENDMENTS

A. To The City's Building Code

All amendments to the City's Building Code shall first be reviewed by the Board. The Board's recommendation shall then be presented to the City Council for its consideration.

B. To the Board Rules

These rules may be changed at any regular meeting of the Board by a two-thirds (2/3) vote of the Board membership, provided previous written notice has been given at a regular meeting and held over until the next regular meeting. Copies of the amendments shall be made available to all members and interested persons. Public comment shall be considered prior to the adoption of amendments to these rules.

Copies of these rules shall be available on the Board's page on the City's website.

IV. BOARD MEMBERS

A. Terms

The term of Board membership is five years. Each member shall serve until their successor is appointed and qualified. Said terms shall terminate on June 30 of the respective year. Any member may be removed by the Mayor, with approval of the Council, for malfeasance, incapacity, or neglect of duty. Traditionally, terms are staggered so that one member's term expires each year.

Immediately upon convening of the Board, each member shall take an oath of office in a form prescribed by the City Attorney. At the first meeting on or after July 1 of each year, the Board shall elect one of its members as Chair and one as Vice-Chair, in accordance with Section 9-102 of the City Code.

B. Attendance

A representative, appointed by the Director, shall keep the record of attendance for each Board member. Should a member be absent for three consecutive meetings or more than three times in six months or evidence a less than 75% attendance record in a calendar year, the representative shall notify the Director who shall notify the Mayor, who may request the member's resignation.

C. Recusal

Upon receipt of the agenda, each Board member must review the agenda and notify the Chair in advance of any conflicts of interest pursuant to the Louisiana Code of Governmental Ethics (La. R.S. 42:1101, et seq.), the City of New Orleans Code of Governmental Ethics, and/or other personal conflict of interest. At the meeting, the Board member must: (1) announce their recusal; (2) state

the reason for their recusal; and (3) not be allowed to participate in debate or vote; however, they may remain in the room to listen to debate if they opt to.

Where either a majority vote or a two-thirds (2/3) vote is required, abstentions/recusals have absolutely no effect on the outcome of the vote (i.e. is not counted toward the majority or two-thirds of the votes cast).

D. Ethical Procedures

Board members shall conduct themselves in accordance with the City Charter, the Code of Ethics for the City of New Orleans (Ordinance No. 16,413 M.C.S.) and the State Ethics Code (La. R.S. 42:1001 et seq.).

E. Ex Parte Communications

Board members shall not permit interviews, formal or informal, written or verbal, with any interested party, any representative of an interested party or parties, or applicant relative to a case before the Board. Ex Parte contacts are improper or give the appearance of impropriety because all interested parties are not included.

No Board member(s) shall in any way pledge himself/herself to a matter pending before the Board or in any way express themselves regarding such matter prior to a required public hearing or prior to the Board meeting at which time the matter will be considered.

This shall not preclude the discussion by members of procedural or other matters unrelated to the merits of a proposal awaiting the Board's consideration.

F. Liability

In accordance with Section 26-15 (103.8) of the City Code, "[t]he Director, members of the Board of Building Standards and Appeals or employees charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Director or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code."