

BUILDING CODE  
BOARD OF APPEALS

**TEMPORARY RULES  
AND REGULATIONS**



For the  
City of Portsmouth  
New Hampshire

Adopted:

# City of Portsmouth Building Code Board of Appeals

## Temporary Rules and Regulations

- I. **Ordinance Rules and Regulations:** The City of Portsmouth has adopted under its ordinances, Chapter 12 Part I, International Building Code, 2006, Appendix B, Rules and Procedures for the Building Code Board of Appeals (“Board”), which are incorporated by reference and attached hereto.
- II. **Roberts Rules:** With these rules and regulations, the Board shall conduct its business in accordance with *Roberts Rules of Order*, except when these rules would dictate otherwise.
- III. **Quorum:** Three (3) members of the Board in attendance at a meeting is necessary to form a quorum.
- IV. **Role of Alternate Board Members:** Alternate Board member(s) shall sit with all other Board members during the meetings and may participate through the close of the public hearing. After the close of the public hearing, an Alternate shall only participate in petitions when they have been designated to do so by the Chairman. When an alternate is required for Board action, the Chairman shall appoint one of the two alternates to participate in the hearing if a regular member cannot participate on said item. If an alternate has already been appointed to sit in for a regular member, then the second alternate shall be appointed by the Chairman to sit on the Board as needed. If an alternate is seated for an item on which no action is taken during that meeting, it shall be the role of the alternate to conclude the review of the item, if continued and presented at a later date, and participate fully in the action of that time.
- V. **Procedure for Public Hearing:**
  1. A public hearing shall be held on each application for appeal and the Board shall follow the following procedure:
    - A. Presentation by the applicant;
    - B. Questions by Board members;
    - C. Public comment to, for or against the application or proposal;
    - D. Chair closes public hearing;
    - E. Board discussion and Motion(s) on the application;

- F. Discussion on the motion(s) with no further public comment and no addition by the applicant unless in answer to a question from the Board; and
  - G. Vote on the motion(s).
2. The Board may impose reasonable time limits on presentations and public comments to the Board.
  3. If the public hearing is continued to a subsequent meeting of the Board, the procedure outlined above shall also be followed at the continued hearing.
  4. The Board may modify the above procedure for an individual application by the vote of the Board.
  5. A written decision of the Board shall be filed within 5 business days after the vote.
- VI. **Miscellaneous:** The applicant will be allowed to request a postponement of the application provided the applicant can provide just cause for the request. This section shall not apply to any application if the City needs to postpone or cancel any meetings.

Adopted September 8, 2017

## APPENDIX B

# BOARD OF APPEALS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION B101 GENERAL

**B101.1 Application.** The application for appeal shall be filed on a form obtained from the building official within 20 days after the notice was served.

**B101.2 Membership of board.** The board of appeals shall consist of persons appointed by the chief appointing authority as follows:

1. One for five years; one for four years; one for three years; one for two years; and one for one year.
2. Thereafter, each new member shall serve for five years or until a successor has been appointed.

The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.

**B101.2.1 Alternate members.** The chief appointing authority shall appoint two alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

**B101.2.2 Qualifications.** The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

1. Registered design professional with architectural experience or a builder or superintendent of building construction with at least ten years' experience, five of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering experience.
3. Registered design professional with mechanical and plumbing engineering experience or a mechanical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
4. Registered design professional with electrical engineering experience or an electrical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
5. Registered design professional with fire protection engineering experience or a fire protection contractor with at least ten years' experience, five of which shall have been in responsible charge of work.

**B101.2.3 Rules and procedures.** The board is authorized to establish policies and procedures necessary to carry out its duties.

**B101.2.4 Chairperson.** The board shall annually select one of its members to serve as chairperson.

**B101.2.5 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**B101.2.6 Secretary.** The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**B101.2.7 Compensation of members.** Compensation of members shall be determined by law.

**B101.3 Notice of meeting.** The board shall meet upon notice from the chairperson, within 10 days of the filing of an appeal or at stated periodic meetings.

**B101.3.1 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.

**B101.3.2 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**B101.3.3 Postponed hearing.** When five 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.

**B101.4 Board decision.** The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members.

**B101.4.1 Resolution.** The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the building official.

**B101.4.2 Administration.** The building official shall take immediate action in accordance with the decision of the board.

CITY OF PORTSMOUTH  
AMENDMENT TO APPENDIX B  
BOARD OF APPEALS

B101.2.2 Qualifications. The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

1. Registered design professional that is a registered architect.
2. Registered design professional that is a registered civil or structural engineer.
3. Registered design professional that is a registered mechanical engineer; or a licensed master plumber with at least ten years experience in building plumbing and/or HVAC systems.
4. Registered design professional that is a registered electrical engineer; or a licensed master electrician with at least ten years experience in building electrical systems.
5. A building contractor with a t least ten years experience in construction.