

Part VII—Appendices

APPENDIX A BOARD OF APPEALS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance or legislation of the jurisdiction.

User note:

About this appendix: Appendix A contains optional criteria that, when adopted, provide jurisdictions with detailed appeals, board member qualifications and administrative procedures to supplement the basic requirements found in Section 109 of this code.

SECTION A101 GENERAL

[S] **A101.1 Scope.** A board of appeals shall be established as needed within the jurisdiction for ~~((the purpose of hearing applications for modification of the requirements of the *International Fire Code* pursuant to the provisions of Section 109 of the *International Fire Code*))~~ appeals of Fire Department decisions or actions pertaining to the application and interpretation of the Fire Code. The board shall be established and operated in accordance with this section, and shall be authorized to hear evidence from appellants and the *fire code official* pertaining to the application and intent of this code, ~~((for the purpose of issuing orders pursuant to these provisions.))~~

The board of appeals's recommendations are advisory only, and are not binding on the Seattle Fire Department. If the Fire Chief declines the board of appeals's recommendations, the Fire Chief will state the reasons why in writing. A copy of this statement shall be provided to the applicant, the members of the Fire Code Advisory Board, the Mayor's Office and the City Councilmember who chairs the City Council's Public Safety Committee.

The board of appeals is only established for specific issues and is dissolved once the appeal process is complete for each such issue.

[S] **A101.2 Membership.** The membership of the board shall consist of five ~~((voting members having))~~ Fire Code Advisory Board members, three of whom have the qualifications established by this section. Members shall be ~~((nominated by the fire code official or the chief administrative officer of the jurisdiction, subject to confirmation by a majority vote of the governing body))~~ selected by the Chair of the Fire Code Advisory Board. ~~((Members shall serve without remuneration or compensation, and shall be removed from office prior to the end of their appointed terms only for cause.))~~ The Fire Code Advisory Board Chair, at his/her discretion, may appoint or substitute additional Board members to hear a given appeal if he/she believes particular expertise is needed for particular appeals. The board of appeals shall select a chair.

[S] **A101.2.1 Design professional.** One member shall be a practicing design professional registered in the practice of engineering or architecture in the state in which the board is established (architect, chemical engineer or mechanical engineer position on the Fire Code Advisory Board).

[S] **A101.2.2 ~~((Fire protection engineering professional))~~ General public.** ~~((One member shall be a qualified engineer, technologist, technician or safety professional trained in fire protection engineering, fire science or fire technology. Qualified representatives in this category shall include fire protection contractors and certified technicians engaged in fire protection system design.))~~ One member shall be from the general public position on the Fire Code Advisory Board.

[S] ~~((A101.2.3 Industrial safety professional. One member shall be a registered industrial or chemical engineer, certified hygienist, certified safety professional, certified hazardous materials manager or comparably qualified specialist experienced in chemical process safety or industrial safety.))~~

[S] ~~((A101.2.4 General contractor. One member shall be a contractor regularly engaged in the construction, alteration, maintenance, repair or remodeling of buildings or building services and systems regulated by the code.))~~

[S] ~~((A101.2.5))~~ **A101.2.3 General industry or business representative.** One member shall be a representative of business or industry ~~((not represented by a member from one of the other categories of board members described in Sections A101.2.1 through A101.2.4))~~ (building owners and manager association, fire insurance industry, Port of Seattle, services industry,

marine industry, manufacturing/warehousing industry, fire protection industry, labor representative, major institutions, or research/lab industry position on the Fire Code Advisory Board).

[S] (~~(A101.3 Terms of office.~~ Members shall be appointed for terms of 4 years. Members shall not be reappointed to serve more than two consecutive full terms.

~~A101.3.1 Initial appointments.~~ Of the members first appointed, two shall be appointed for a term of 1 year, two for a term of 2 years, one for a term of 3 years.

~~A101.3.2 Vacancies.~~ Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Members appointed to fill a vacancy in an unexpired term shall be eligible for reappointment to two full terms.

~~A101.3.3 Removal from office.~~ Members shall be removed from office prior to the end of their terms only for cause. Continued absence of any member from regular meetings of the board shall, at the discretion of the applicable governing body, render any such member liable to immediate removal from office.)

[S] (~~(A101.4 Quorum.~~ Three members of the board shall constitute a quorum. In varying the application of any provisions of this code or in modifying an order of the *fire code official*, affirmative votes of the majority present, but not less than three, shall be required:))

[S] (~~(A101.5 Secretary of board.~~ The *fire code official* shall act as secretary of the board and shall keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote:))

[S] (~~(A101.6 Legal counsel.~~ The jurisdiction shall furnish legal counsel to the board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at the jurisdiction's expense in all matters arising from service within the scope of their duties:))

[S] (~~(A101.7 Meetings.~~ The board shall meet at regular intervals, to be determined by the chairman. In any event, the board shall meet within 10 days after notice of appeal has been received:))

[S] (~~(A101.8)~~ **A101.3 Conflict of interest.** Members with a material or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.

[S] (~~(A101.9 Decisions.~~ Every decision shall be promptly filed in writing in the office of the *fire code official* and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the office of the *fire code official* for 2 weeks after filing:))

[S] (~~(A101.10)~~ **A101.4 Procedures.** The board shall be operated in accordance with the ((Administrative Procedures Act of the state in which it is established or shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code and applicable state law)) procedures and timelines detailed in Section A101.4.1 through A 101.4.3.6.

[S] A101.4.1 Preliminary steps to request review by the Board of Appeals. Before requesting a review by the board of appeals, the applicant shall first explore resolution of the compliance problem by proposing modified Code requirements (Section 104.8) or alternative materials and methods (Section 104.9). Prior to requesting review, the applicant shall also discuss the particular compliance situation in depth with the following representatives of the Seattle Fire Department:

1. The appropriate inspector from the Fire Marshal's Office (FMO), the Fire Prevention Division of the Seattle Fire Department.
2. The FMO inspector's supervisor, if the matter cannot be resolved with the inspector.
3. The Fire Marshal, if the matter cannot be resolved with the supervisor.
4. If necessary, the Fire Chief, where agreement cannot be reached with the Fire Marshal.

After discussing the issue as detailed above, the applicant may then submit a written request for review by the board of appeals, addressed to the Fire Chief and sent to the Fire Marshal's attention, concisely stating the issues involved, the factual background, and the relevant Seattle Fire Code section(s). The Fire Code Advisory Chair will determine if the applicant's request is within the scope of the Fire Code in consultation with the applicant and the Fire Marshal.

[S] A101.4.2 The appeal process. After the preliminary steps shown above have been pursued, and the applicant has submitted a written request for review by the board of appeals, the next steps in the appeals process, to be completed within the timelines detailed in Section A101.4.3, are as follows:

1. The Seattle Fire Department Technical Code Coordinator will notify the applicant when and where board of appeals meeting will occur.
2. Written statements and exhibits will be submitted to the Technical Code Coordinator from both the applicant and the Fire Department prior to the board of appeals meeting. These statements should include any relevant exhibits such as plans, as well as a list of any expert witnesses. The applicant and Fire Department must submit one copy of their respec-

tive statements and attachments for each board of appeals member, with an additional copy for the other party. The Technical Code Coordinator will deliver the copies to the respective parties.

3. The board of appeals will select its own chairperson. The applicant will make its presentation first, followed by the Fire Department. The applicant and the Fire Department should each be limited to 30 minutes for oral presentation, including questions from the board of appeals, unless the board of appeals Chair determines at the beginning of the meeting that more time is warranted. In any event, each party will be provided equal time to make its presentation to the board of appeals. Each party's oral presentation should address the factual background, the issues and the Seattle Fire Code sections involved. Each party may include design professionals or other persons in its presentation to the board of appeals.
4. The board of appeals may visit the site(s) involved in the compliance dispute, at the request of either the Fire Department or the applicant, or on the board of appeals's own initiative. The applicant shall make the site(s) available to the board of appeals for site visit(s). The site visit(s) will be scheduled through the Technical Code Development Director. No such site visit(s) will be made without a representative of both the Fire Department and the applicant present.
5. The board of appeals shall make its written recommendations concerning the particular compliance situation to the Fire Chief. A copy of the board of appeals's recommendations will also be provided to the applicant, the Fire Code Advisory Board (FCAB) Chair, and the other members of FCAB. A statement in the following form, signed by the appropriate officer, shall accompany each report:

This report has been submitted to ballot of the board of appeals which consists of five members, of whom _____ have voted affirmatively, _____ negatively, and _____ have not voted.
6. The board of appeals's recommendations are advisory only, and are not binding on the Seattle Fire Department. If the Fire Chief declines the board of appeals's recommendations, the Fire Chief will state the reasons why in writing. A copy of this statement shall be provided to the applicant, the members of the FCAB, the Mayor's Office and the City Councilmember who chairs the City Council's Public Safety Committee. In every case, the Fire Marshal shall be available to meet with the applicant after the conclusion of the board of appeals review.

IS1 A101.4.3 Timelines for the appeal processes. Timelines for the appeals processes shall be in accordance with Sections A101.4.3.1 through A101.4.3.6.

IS1 A101.4.3.1 Written request for review. The applicant shall submit a written request for a board of appeals review to the Fire Chief within 10 business days after the Chief has notified the applicant of the Chief's decision on the applicant's particular compliance dispute.

IS1 A101.4.3.2 Notifying FCAB of a request for review. The Fire Marshal, acting on behalf of the Fire Chief, will make a reasonable effort to notify the Fire Code Advisory Board Chair within three business days (Monday through Friday, holidays excepted) of receiving an applicant's written request for a review by the board of appeals. The Fire Marshal shall provide a copy of the applicant's written request to the FCAB Chair at this time.

A101.4.3.3 Selecting members of the board of appeals. The members of the board of appeals will be selected within five business days of the time that the FCAB Chair receives the applicant's written request for review from the Fire Marshal.

A101.4.3.4 Scheduling the meeting. The board of appeals will meet to review the applicant's compliance dispute within 15 business days from its selection by the FCAB Chair. The Technical Code Development Director will contact the FCAB Chair, the members of the board of appeals, the Seattle Fire Department and the applicant to schedule a place and time for the board of appeals's meeting(s).

A101.4.3.5 Written statements and exhibits. The applicant and the Seattle Fire Department will each submit a concise written statement of the issue(s), facts and relevant Seattle Fire Code section(s) involved to the Technical Code Development Director at least seven business days before the date of the first board of appeals meeting to consider the compliance dispute. The Technical Code Development Director will have these copies delivered at least three business days before the first board of appeals meeting.

A101.4.3.6 The board of appeals's recommendations. Within five business days of its final meeting or site visit regarding the compliance dispute, the board of appeals shall make its written recommendations concerning the particular compliance situation to the Fire Chief. A copy of the board of appeals's recommendations will also be provided to the applicant, the FCAB Chair, and the other members of FCAB. The board of appeals's review and advisory recommendations should be completed within 60 calendar days from the time that the Fire Chief notifies the applicant of the Chief's pre-appeal decision, although more time may be taken if both the applicant and the Fire Marshal agree to an extension of time.

