

RESOLUTION 2018- 009

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, UPDATING THE CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

WHEREAS, the State of Florida first adopted the Florida Building Code, a state wide building code in 2002; and

WHEREAS, it was the intent of the Legislature of the State of Florida that the Florida Building Code would be a statewide, unified building code that superseded and replaced all local building codes; and

WHEREAS, the Florida Building Code is updated from time to time and the 2017 6th Edition of the Florida Building Code is adopted by reference pursuant to Indian River County Code Section 401.01; and

WHEREAS, Section 113 of the Florida Building Code authorizes the applicable local governing body to appoint members to a Construction Board of Adjustment and Appeals and further sets forth the duties, powers, membership and procedures of the Construction Board of Adjustment and Appeals; and

WHEREAS, Ordinances 91-12, 2001-020 and 2003-040 established and amended the Indian River County Building Code Board of Adjustments and Appeals to the Construction Board of Adjustment and Appeals; and

WHEREAS, as a result of the adoption of the 2017 6th Edition of the Florida Building Code, it has become necessary to amend the resolution establishing the Construction Board of Adjustment and Appeals so that the resolution is consistent with the Florida Building Code; no additional construction regulations are added as a result of this resolution;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Indian River County:

1. **ESTABLISHMENT.**

Pursuant to IRC Code §400.07, 400.08 and the Florida Building Code Chapter 113, There is hereby established an update to the composition and rules governing the Construction Board of Adjustment and Appeals, which shall consist of nine members but not less than seven. The Board shall be appointed by the Board of County Commissioners.

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2. MEMBERSHIP.

The Construction Board of Adjustment and Appeals shall be composed of the following:

- one Division I contractor
- one electrical contractor
- one mechanical contractor
- one plumbing contractor
- one architect
- one engineer
- one code administrator, inspector or plans examiner and
- two members of the general public.

3. TERM.

The terms of office of the board members shall be staggered so no more than 1/3 of the board is appointed or replaced in any 12 month period. Vacancies shall be filled for an un-expired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the board shall, at the discretion of the applicable governing body, render any such member subject to immediate removal from office. Members serve a 3-year term.

4. QUORUM AND VOTING.

A simple majority of the board shall constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the building official, not less than four affirmative votes, but not less than a majority of the board, shall be required.

5. POWERS AND DUTIES.

The Construction Board of Adjustments and Appeals shall have the power and duty to:

- revoke or suspend the registration of any person approved, registered or licensed under this chapter who shall be guilty of any one (1) or more of the offenses listed in IRC Code §§400.07 and 400.08.
- hear appeals of decisions, administrative complaints and interpretations of the building official relating to County ordinances, rules and regulations. The owner of a building, structure or service system, or his duly authorized agent, may request a hearing before or appeal a decision of the building official to the Construction Board of Appeals whenever any one of the following conditions listed in Florida Building code §113.4.1 are claimed to exist:
 1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
 2. The provisions of this code do not apply to this specific case.

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3. That an equally good or more desirable form of installation can be employed in any specific case.
4. The true intent and meaning of this code or any of the regulations there under have been misconstrued or incorrectly interpreted.
5. A citation or an administrative complaint has been filed by the Building Official.

Appeals of decisions and interpretations of the building official relating to the Florida Building Code, (see section 113.4.2 of the Florida Building Code), must be made to the Florida Building Commission as outlined in Florida Statute §553.775.

6. GENERAL PROVISIONS.

The provisions of Title 1, Chapter 103, relating to boards and commissions shall apply to this Committee. The Board shall elect from among its voting members a chairman and a vice chairman at its first meeting of each year. Each chair and vice chair shall serve for a one-year term and may be reelected but shall be limited to two successive annual terms, at which point they would be ineligible to chair the committee for at least one year.

7. MEETINGS.

The Board shall meet within 30 calendar days after notice of appeal has been received. Meetings shall be held as decided by the Committee in coordination with County staff. A meeting may be called at the request of the chair of the Committee. The agenda for each meeting shall be established by the chairman in coordination with County staff. The chairman, staff or any Committee member may place matters on the agenda. Any Committee member may make an oral or written report on committee activity at a subsequent Board of County Commissioners meeting under "Public Discussion Items" or under "Departmental Agenda Matters" with the concurrence of staff.

8. DECISIONS.

The Construction Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final, subject however to such remedy as an aggrieved party might have at law or in equity.

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9. CONSULTANT/VENDOR CONTACT.

The chair or individual Committee members are prohibited from contacting consultants or vendors retained by the County.

The resolution was moved for adoption by Commissioner Flescher, and the motion was seconded by Commissioner Zorc, and, upon being put to a vote, the vote was as follows:

Chairman Peter D. O'Bryan	<u>AYE</u>
Vice Chairman Bob Solari	<u>AYE</u>
Commissioner Susan Adams	<u>ABSENT</u>
Commissioner Joseph E. Flescher	<u>AYE</u>
Commissioner Tim Zorc	<u>AYE</u>

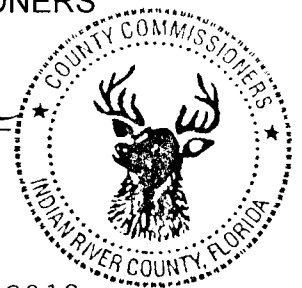
The Chairman thereupon declared the resolution duly passed and adopted this 9th day of January, 2018.

Attest: Jeffrey R. Smith, Clerk
Of the Circuit Court and Comptroller

INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS

By: *J. Kasper*
Deputy Clerk

By: *Peter D. O'Bryan*
Peter D. O'Bryan, Chairman



Approved as to form and legal
sufficiency:

BCC approval date: January 9, 2018

William K. DeBraal
William K. DeBraal
Deputy County Attorney