

## **SECTION 112 – BOARD OF APPEALS**

**112.1 Creation.** There shall be and is hereby created a Board of Appeals, hereinafter called the Board, consisting of seven members who shall be qualified by experience and training to pass upon matters pertaining to building construction and fire safety and who shall be appointed by the Mayor with the approval of the County Council. One member shall be currently registered as an engineer or architect with the state of Hawai'i Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects. Two members shall be qualified by experience or training to pass upon matters pertaining to fire safety.

One member shall be qualified by experience and training to pass upon matters pertaining to electrical work. One member shall be qualified by experience and training to pass upon matters pertaining to plumbing work. One member shall be qualified by experience and training to pass upon matters pertaining to building construction work. One member shall be from the public at large. The Board shall select a chairperson and vice chairperson annually.

**112.2 Term of Office.** The members of the Board of Appeals shall serve for staggered terms of three years and until their successors are appointed. However, no holdover term shall extend beyond ninety days.

**112.3 Limitation on Number of Terms.** No member of the Board of Appeals shall serve for more than two consecutive terms. Any partial term or more than two years shall be considered a term as used herein.

**112.4 Quorum.** A majority of the entire membership shall constitute a quorum and the affirmative vote of a majority of the entire membership shall be necessary to take any action.

**112.5 Powers and Duties.** The Board shall:

- (a) Hear and determine appeals from the decisions of the Building Official in the administration of the County of Kaua'i Building Code, Electrical Code, Sign Ordinance and Plumbing Code, involving any denial of the use of new or alternate materials, types of construction, equipment, devices or appliances.

In the case of any denial of the use of new or alternate materials, types of construction, equipment, devices, or appliances, an appeal may be sustained if the record shows:

- (I) that such new or alternate materials, types of construction, equipment, devices or appliances meet the required standards established by the Codes being appealed from;
- (II) that permitting the use thereof will not jeopardize life, limb or property; and
- (III) that such use will not be contrary to the intent and purpose of the Code being appealed from.  
In such appeals, the appellant shall pay all expenses necessary for tests, which may be ordered by the Board.

The Board may reverse, affirm or modify, wholly or partly, the decision appealed from.

- (b) Hear and determine appeals from the decision of the Fire Official in the administration of the County of Kaua'i Fire Code; and any denial in the use of new or alternate materials, types of construction, equipment, devices, or appliances.

(c) Hear and determine petitions for varying the application of the Building Code, Electrical Code, Sign Ordinance and Plumbing Code. A variance may be granted if the Board finds:

- (I) that the strict application, operation or enforcement of the Code being appealed from would result in practical difficulty or unnecessary hardship;
- (II) that safety to life, limb and property will not be jeopardized; and
- (III) that the granting of variance would not be injurious to any adjoining lot and any building thereon, would not create additional fire hazards, and would not be contrary to the purpose of the Code and the public interest. In making its determination, the Board shall take into account the character, use and type of occupancy and construction of an adjoining lot and any building involved.

**112.6 Procedure.** The proceedings of the Board shall be subject to the provisions of Chapter 91, Hawai'i Revised Statutes, as amended. The Board shall adopt rules and regulations for conducting its meetings, hearings, and investigations in conformity therewith and may impose fees to cover the costs of such proceedings.