

CHAPTER 1315
Appeals

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CROSS REFERENCES

Fire insurance proceeds - see Ohio R.C. 3929.86
Nuisance abatement appeal - see BLDG. 1323.06

1315.01 BOARD OF BUILDING APPEALS ESTABLISHED.

The Board of Building Appeals is hereby established in the City and shall consist of five (5) members, who need not be citizens of the City. (Ord. 98-191. Passed 06-02-98.)

1315.02 APPOINTMENT.

(a) The members of the Board of Building Appeals shall be appointed by the Mayor with consent of the City Commission for terms of five years each. Vacancies to such Board shall be filled by the City Commission for the unexpired term.

(b) If any Board member is absent from three of any six consecutive regularly scheduled meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of the Board which fails to qualify as a "meeting" for lack of quorum, such member's office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his/her term. (Ord. 04-308. Passed 10-19-04.)

1315.03 QUALIFICATIONS.

One member shall be an Attorney at Law admitted to the Bar of the State of Ohio; one shall be a registered Architect; one shall be a registered professional engineer, specializing in structural engineering; and one shall be a registered professional engineer specializing in mechanical engineering; Each of these four members shall be licensed to practice his profession in the State of Ohio and shall be a person of recognized ability and broad training who is experienced in problems and practice incidental to the construction and equipment of buildings and structures. One member shall be a representative of organized labor who is knowledgeable as to the construction and equipment of buildings and structures. A person who is a member of a City employee's family, as defined in Section 111.04, shall not be eligible for service on the Board of Building Appeals.

(Ord. 98-191. Passed 06-02-98. / Ord. 12-110. Passed 4-10.12)

1315.04 QUORUM AND ORGANIZATION.

(a) The Board of Building Appeals shall elect from its membership a Chairman who shall serve for a term of one calendar year. No person may serve as Chairman for more than two consecutive calendar terms. The Chairman shall not be disqualified by reason of such office from exercising any power as a member of such Board. The Chief Building Official of the City or his designated representative shall serve as Secretary. The Board shall adopt its own rules governing its conduct. At least three members shall be present to constitute a quorum and in varying the application of or supplementing any provision of Title One of Part Thirteen of the Codified Ordinances, or of any rule or regulation of the Board, and in modifying or reversing any order of the Chief Building Official or any order of the Code Enforcement Manager pertaining to existing structures, the concurrence of three members of such Board shall be required.

(b) No member of any Board shall act in any case in which he has a personal interest.

(Ord. 98-191. Passed 06-02-98.)

1315.05 RECORDS.

The Secretary of the Board shall make and keep a full and complete record of all its proceedings, including decisions, with reasons; the vote of each member participating therein, or the failure of a member to vote; and absences of members. Such records shall be open to public inspection.

(Ord. 98-191. Passed 06-02-98.)

1315.06 RULES AND REGULATIONS.

The Board of Building Appeals shall be, and the same is hereby authorized, to promulgate rules and regulations governing use of materials and methods of construction not specifically provided for in this Code. Such rules and regulations shall be based upon accepted State and Federal standards and shall effectuate the intent and purpose of this Code.

(a) At least ten-days' notice of intention to adopt, amend or repeal any rule or regulation shall be given by one publication in a newspaper of general circulation in the City.

(b) No final action shall be taken upon such rule or regulation until a public hearing thereon has been held.

(c) All adopted rules and regulations shall be posted in a conspicuous

place in the office of the Chief Building Official, and shall take effect at such time as may be fixed by the Board, but in no event less than twenty days after such publication.

- (d) A record shall be made of evidence taken by the Board concerning any rule or regulation.
(Ord. 98-191. Passed 06-02-98.)

1315.07 POWER OF APPEALS.

The Board of Building Appeals shall hear and decide all appeals authorized by Chapters 1301, 1303, 1305, 1323, 1327, and 1361 of the Codified Ordinances. The Board of Building Appeals shall hear and decide the appeal of any person aggrieved by any decision made by the Fire Official in accordance with the Fire Prevention Code, Part 15 of the Codified Ordinances, or any order or citation issued by the Fire Official pursuant to the Fire Prevention Code, Part 15 of the Codified Ordinances.
(Ord. 98-191. Passed 06-02-98.)

1315.08 ORDERS.

Each order of the City shall cite the law or rules upon which it was issued and shall specify what actions are necessary to comply with the applicable code. Upon the issuance of an order of the City the owner and occupant/tenant of the property which is the subject of the order and/or contractors and workers engaged in the property shall cease with their work until the order is complied with or until the order is reversed or modified by the Board or a court of competent jurisdiction. The order shall include a notice of the procedure available to appeal an order and the right to a hearing before the Board if requested within the time period provided in the applicable code. The notice shall also inform the party that at the hearing the party may be represented by counsel, present arguments orally or in writing, and present evidence and examine witnesses who may appear before the Board.
(Ord. 98-191. Passed 06-02-98.)

1315.09 NOTICE OF APPEALS; RECORDS.

Appeals shall be made within thirty days after an order of the Chief Building Official is rendered and within ten days after an order of the Code Enforcement Manager is rendered by filing a written notice of appeal, specifying the grounds therefor, with the official whose decision is being appealed, and the official shall immediately forward the appeal to the Board of Building Appeals. Such official shall also forthwith transmit to the Board all papers constituting a record upon which the action appealed was presented. The Secretary of the Board of Building Appeals shall schedule for hearing all appeals filed at least seven days before the next regularly scheduled meeting of the Board of Building Appeals. Upon application made by an appellant, and for good cause shown, the Secretary may continue an appeal until the next regularly scheduled meeting of the Board of Building Appeals.
(Ord. 98-191. Passed 06-02-98.)

1315.10 STAY.

The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the official from whom the appeal is taken shall file a certificate with the Board of Building Appeals describing the facts pertinent to and resulting in the action appealed from and stating that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. A copy of the certificate shall forthwith be mailed to the appellant at the address stated in the notice of appeal. The appellant

may seek an immediate hearing before the Board. After the filing of a certificate, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of competent jurisdiction upon application. The issuance of a "Stop Work Order" is an exception to this section whereby the filing of an appeal with the Board does not stay the enforcement of such order.
(Ord. 98-191. Passed 06-02-98.)

1315.11 HEARING OF APPEALS.

The Board of Building Appeals shall give due notice of hearing times and dates to the parties and shall decide the same within 30 days after the date of the hearing. At the hearing, any party may appear in person or by agency or attorney. The fee for filing an appeal with the Board of Building Appeals shall be two hundred dollars (\$200.00).
(Ord. 04-223. Passed 07-13-04.)

1315.12 DECISION ON APPEAL.

(a) Every decision of the Board of Building Appeals shall be in writing, and shall indicate the vote of the decision. Every decision shall be sent by certified mail or delivered in person to the appellant, and a copy shall be publicly posted in the City Hall for two weeks after filing.

(b) The official concerned shall take action immediately in accordance with the ruling of the Board of Building Appeals.
(Ord. 98-191. Passed 06-02-98.)

1315.13 APPEAL FROM BOARD DECISION.

A decision of the Board of Building Appeals is a final, appealable decision.
(Ord. 98-191. Passed 06-02-98.)

1315.14 MEETINGS OF BOARD.

Meetings shall be held once monthly and as many times as necessary upon the call of the City Manager. The Chairman and the Secretary may call special meetings and may cancel the monthly meeting if there is no business for the Board of Building Appeals to consider.
(Ord. 98-191. Passed 06-02-98.)

1315.15 REPORTS OF BOARD.

The Board of Building Appeals shall annually, not later than January 31 of each year, submit a report to the City Commission covering the work of the Board during the preceding year, and shall incorporate in such report its recommendations as to desirable amendments of this Code.
(Ord. 98-191. Passed 06-02-98.)

1315.16 DEFINITIONS.

As used in this Chapter, certain terms are defined as follows:

- (a) "Order" means an adjudication order or a written notice of corrections.
- (b) "Personal interest" means any business in which a member of the Board of Building Appeals has a conflict of interest by association. "Personal interest" shall also mean any interest in a matter before the Board of Building Appeals such that applicable federal, state, or local law would disqualify the member of the Board of Building Appeals from taking any action pertaining to such matter.
- (c) "Work" means the erection, construction, repair, improvement, moving, alteration, remodeling, removal, or demolition of a building or structure; of a

swimming pool; or of electrical, heating, ventilation or air conditioning facilities.
(Ord. 98-191. Passed 06-02-98.)