

RULES AND BY-LAWS OF
THE BUILDING SAFETY CODE BOARD OF APPEALS
OF THE CITY OF URBANA, ILLINOIS

DRAFT (for 4.11.2013 BSCBA Meeting)

1. Membership

The membership of the Building Safety Code Board of Appeals (“Board”) shall be constituted in accordance with the requirements set forth in Urbana City Code Chapter 5, Article III, Sections 113.5 and 113.5.1, as amended.

2. Officers

- (a) Chair. The Mayor shall appoint the Chair. The Chair shall preside at all meetings and have general charge of Board business and generally perform such other duties normally conferred by parliamentary usage on such officers or as may be specified by City Ordinance or applicable State statute. The Chair shall also preside during any appeal hearing and shall rule on the admissibility of evidence during an appeal hearing as provided herein. The Chair is a voting member of the Board.
- (b) Temporary Chair. Whenever the Chair is absent or otherwise unable to participate in a meeting or hearing, the Board shall elect a temporary Chair for the meeting or hearing in question. The temporary Chair shall perform all the duties and exercise all the power of the Chair.

3. Board Secretary.

The Community Development Director, or his or her designee, shall each serve as a Secretary of the Board (“Secretary”). Each Secretary shall be responsible for the following:

- (a) Keeping a record of all proceedings of the Board;
- (b) Arranging for the proper legal notice regarding all proceedings of the Board in compliance with the Urbana City Code and the Open Meetings Act;
- (c) Preparing and publishing, as otherwise required herein, minutes of all proceedings of the Board; and
- (d) Attending to correspondence with the Board and any other matters normally carried out by the Secretary.

4. Meetings/ Hearings

- (a) Regular meetings. The Board shall meet quarterly, on the second Thursday of the months of January, April, July and October, at 4:00 p.m. If there is no business scheduled for a meeting, the Secretary shall cancel the meeting.
- (b) Scheduling a hearing for an appeal. The Board shall meet upon notice of the Chair or the Building Official within 20 working days of the filing of an appeal.
- (c) Special meetings. Upon request of the appellant for the purpose of expediting the hearing, the Secretary may schedule a special meeting to hear the appeal, subject to the availability of a quorum of Board members.
- (d) Notice of meeting. Notice of the date, time and place of a hearing on an appeal shall be mailed or otherwise delivered to the appellant not less than five days prior to the hearing date.
- (e) Location of meetings. All meetings shall be held in the City Council Chambers, City Building, Urbana, Illinois, or at such other place designated by the Chair or Board.
- (f) The Secretary shall give notice of all meetings in accordance with the requirements of the Open Meetings Act.
- (g) In addition to special meetings provided for herein for hearing appeals, special meetings may be called by the Chair or four (4) regular members.

5. Quorum

Three (3) members of the Board shall constitute a quorum for the transaction of any business.

6. Voting / Conflict of interest

- (a) The usual method of voting is the voice vote. The Chair decides the outcome of each vote and announces the result. If the result of a voice vote is unclear, the Chair may re-take the vote by roll call, show of hands, or other method. The Secretary shall keep a record of all votes as part of the minutes.
- (b) No member of the Board shall attend a public hearing, participate in discussion or act on any matter before the Board in which he or she has a direct or indirect pecuniary interest.
- (c) No member of the Board shall appear on behalf of or represent any person with respect to any matter pending before the Board.

7. Minutes and other records of the proceedings.

The Secretary shall prepare minutes regarding all proceedings before the Board and shall provide draft copies to all Board Members not less than ten (10) working days before the Board meeting at which the minutes will be approved. Minutes shall be approved at the next meeting of the Board. Copies of any approved minutes shall be maintained in the office of the City Clerk, and shall be available to the public upon request.

8. Legal Counsel

- (a) The City Attorney for the City of Urbana or his or her designee shall be the legal counsel for the Board, unless the Legal Division determines that a conflict of interest prevents said representation. In case of a conflict, the City Attorney may appoint independent counsel for the Board.
- (b) The Appellant at any hearing may be represented by legal counsel at the appellant's sole expense.

9. Application for Appeal

- (a) Location for submittal. Application for an appeal shall be submitted at the business office of the Community Development Services Department ("Department").
- (b) Minimum requirements for application. Applications will not be scheduled for a hearing date until the following have been submitted to the Department within the time set forth in the Urbana City Code:
 - i) Completed application on a form provided by the Department, which shall include, at a minimum, the following information:

- (1) a common street address or other suitable means of identifying the property that is the subject of the appeal.
 - (2) a statement regarding which of the permissible reasons for an appeal are being relied upon for the appeal.
 - (3) a list of the names and addresses of all persons and/or entities submitting the appeal and their relationship to the property.
- ii) Payment of the review fee as established by the City's Schedule of Fees, as amended.

10. Staff Report

- (a) Prior to any hearing on an appeal before the Board, Staff of the department issuing the violation notice or decision being appealed from shall prepare a staff report demonstrating the factual basis for the enforcement action
- (b) The Secretary shall provide a copy of the staff report to all Board Members and to the appellant at least five days prior to the date scheduled for the hearing.

11. Order of Business / Agenda

The agenda for each meeting and the order of business shall be as follows:

- (a) Call to Order
- (b) Roll Call
- (c) Minutes of Previous Meeting
- (d) Old Business
- (e) New Business
- (f) Correspondence
- (g) Audience Participation
- (h) Adjournment

12. Appeal Hearings

The order of business for an appeal hearing shall be as follows:

- (a) A Statement by the Chair describing the matter to be heard, including the name of the appellant, the address of the property that is the subject of the appeal, and a brief description of the matter being appealed from.
- (b) Opening statements, explaining the nature of the matter under appeal, first by City Staff and then by the Appellant
- (c) Presentation of evidence by City Staff and other opponents of the appeal.
- (d) Presentation of evidence by the Appellant and other proponents of the appeal.
- (e) Presentation of rebuttal evidence by City Staff and other opponents.
- (f) Presentation of rebuttal evidence by the Appellant and other proponents.
- (g) Surrebuttal by City Staff, at the Chair's discretion.
- (h) Closing statement by the appellant.
- (i) Closing statement by City Staff.
- (j) Discussion by the Board of the evidence and arguments presented.
- (k) Vote on a motion to grant the appeal.
- (l) Hearing closes.

13. Time limitations on presentations.

The Appellant and City Staff shall each be limited to five (5) minutes for any opening and closing statements. Initial presentations of evidence by the Appellant and by City Staff shall be limited to fifteen (15) minutes each. Presentations by individual proponents and opponents shall be limited to five (5) minutes each. Rebuttal presentations by the Appellant and by City Staff shall be limited to ten (10) minutes each. In unusual circumstances, the Chair may modify these limitations with the concurrence of a simple majority of Board members present.

14. Examination of witnesses.

Members of the Board may question the proponent(s) or opponent(s) of the appeal; however, there shall be no cross examination by members of or representatives of the proponents or opponents. All questions or argument by the parties about the evidence or presentations of the opposing side shall be directed to the Chair.

15. Suspension of Rules.

In the course of a public hearing, the Board may suspend the rules for the purpose of discussing the case in an informal matter. During said informal discussion, the Board may ask questions of City staff or the Appellant.

16. Evidence during Hearing on Appeal.

Prior to rendering its decision, the Board shall consider information contained in the appellant's application, any staff report, any documents or exhibits submitted by the appellant or staff during or prior to the hearing and any testimony presented at the hearing. The rules of evidence as established by the State of Illinois for proceedings in court shall not be applicable. The Board may consider any type of evidence, including hearsay, if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

The Chair shall make all determinations regarding any issues about whether a particular type of evidence is relevant to the issues before the Board and otherwise sufficiently reliable to be considered by the Board. The Chair may consult with legal counsel for the Board regarding any determinations on the relevance and reliability of evidence.

Objections by the parties shall be directed to the Chair during that party's opportunity for rebuttal or argument, and not during the course of the other party's presentation.

17. Continuances

Upon the motion of any Board member or party, the Board may continue a meeting and/or public hearing by the concurring vote of a majority of the Board Members present.

18. Appearance at hearing.

Failure of the appellant to appear at a hearing or on any date set for a continuance may be cause for the Board's finding in favor of the City or the appeal being deemed withdrawn.

19. Decision of the Board

- (a) Form of motion. After the close of the public hearing on an appeal, and any discussion among the Board Members regarding the evidence heard or arguments made, the Chair shall call for a motion from the Board in favor of granting the appeal based on the findings of fact submitted by the appellant, or any amendment thereto. Said motion may take the following form:

“I move that the appeal of [name of appellant] in case no. @@ be granted”

Said motion is mandatory in order for the Board to come to a resolution on the appeal, and therefore, it shall not require a second. The motion shall then be subject to a vote of all Board Members present who are not disqualified in any manner from voting on the request for appeal.

- (b) Vote required for granting the appeal / factual basis for denial. If at least three Board Members, vote in favor of a motion to grant an appeal, the motion passes, and the appeal is granted. Otherwise, the motion fails and the appeal is deemed denied.
- (c) Final decision or order. At the conclusion of the vote on the appeal, the Chair shall direct Department staff to prepare a final decision or order. The final decision or order shall contain or have attached thereto, at a minimum, each of the following
 - i) The violation notice or decision appealed from.
 - ii) The date of the public hearing.
 - iii) A list of those Board Members present.
 - iv) A description of the vote of each Board member voting on the appeal.
 - v) A recitation that the appeal has been either granted or denied.
 - vi) A recitation of the findings of fact in support of the decision.
- (d) The final decision or order shall be signed by the Chair or, if the Chair is unavailable, the Vice Chair. Copies of the signed final decision or order shall be issued to the appellant and the Director of the Department within ten (10) working days of the date of the closing of the hearing on the appeal.

20. Date of Decision for purpose of appeal.

The date of the Board's decision shall be the date the Chair signs said final decision or order.

21. Parliamentary Procedure

Parliamentary procedure in Board meetings shall be governed by those rules established for the City Council in the Urbana City Code, as amended.

22. Amendments

These rules and by-laws may be amended by the concurring vote of four or more members of the Board. Any such amendment will become effective at the next meeting.