

**Construction Codes &
Licensing Division**

Rules of Procedure for the State Appeals Board

ARTICLE I – REQUIRMENT

Minnesota Rule part 1300.0230

ARTICLE II – PURPOSE

- A. “In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this code...” (Subpart 1)
- B. “For jurisdictions without a board of appeals, the appellant may appeal to an appeals board assembled by the state of Minnesota, Department of Labor and Industry’s Construction Codes and Licensing Division” (Subpart 1)

ARTICLE III – BASIS OF AN APPEAL

“An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.” (Subpart 3) Appeals will not be heard that argue the literal understanding of a provision.

ARTICLE IV – AUTHORITY OF THE APPEALS BOARD

Authority of the board

- A. “To hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this code.” (Subpart 1)
- B. “[The] ex officio member shall have no vote on any manner before the board. (Subpart 1)
- C. “The board shall have no authority to waive requirements of this code.” (Subpart 3)
- D. “A request for final interpretation must come from a local or state level building code board of appeals.” (Subpart 4)

ARTICLE V – APPLICATION PROCESS

Required information

- A. An application signed and completed by the appellant and building official. The application must identify a place for the building official to confirm that his/her municipality does not have an appeals board as well as a request that the state accept and hear the appellant's appeal.
- B. A copy of the letter from the building official to the appellant outlining his/her final decision on the matter.

ARTICLE VI – OPERATIONS OF THE APPEALS BOARD

Operations of the board

- A. The appeals board shall operate according to Roberts Rules of Order.
- B. The appeals board is voluntary and no per diem will be paid.
- C. Each appeals board will elect a chair.
- D. The board reserves the right to make decisions concerning procedure if not covered by these rules.
- E. Board members will not discuss specific merits of an appeal with anyone prior to the appeals hearing.

ARTICLE VII – TIME LIMIT FOR ACTION ON APPEALS

Time limit for hearings of appeals

“Appeals hearings must occur within 10 working days of the [completed] application for appeal” (Subpart 1)

Time limit for final decision

“The board...shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official and state building official within 15 days of the decision.” (Subpart 1) The final decision on appeals must be rendered at the conclusion of the appeals hearing.

ARTICLE VIII – TESTIMONY ON APPEALS

Testimony on appeals

- A. The appellant may present both written and oral testimony for the purpose of supporting an appeal request. For written testimony to be considered, it must be submitted to the board at the division at least 5 working days prior to the date of the appeals hearing.
- B. Witnesses may appear on behalf of the appellant. However, the chair of the board has the right to limit the number of witnesses and duration of their testimony.
- C. Either the appellant or their designee must appear at the appeals hearing to represent the appeal, direct testimony, and answer questions.

ARTICLE IX – COMPOSTION OF THE BOARD

Selection & terms of board members

- A. “The board of appeals shall be designated by the governing body.” (Subpart 1) Therefore, each year the division director shall designate members of the appeals board.
- B. Members would be expected to serve a one-year term.

Qualifications of board members

- A. “The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction...” (Subpart 2) This shall be determined by the division director.
- B. “The board of appeals shall consist of members who ...are not employees of the affected jurisdiction.” (Subpart 2) Employees of the state of Minnesota may not serve as members of the appeals board.

Composition of board members

- A. “The [state] building official shall be an ex officio member of said board but shall have no vote on any matter before the board.” (Subpart 1) The division director shall designate the division’s ex officio member. This person will serve as the board’s secretary.
- B. Members designated to serve on the board shall be from the following five categories: Minnesota municipal certified building officials; Minnesota municipal fire officials; Minnesota licensed architects; Minnesota licensed engineers; Minnesota licensed homebuilders. Upon receiving an application for appeal, the director shall select five (5) of these members to hear and act on the appeal.