

Local Board of Appeals

In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the building or property maintenance code, there shall be hereby created a board of appeals. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board. The board of appeals will be designated by the governing body. Appeals hearings must occur within thirty working days from the date the municipality receives a properly completed application for appeal. If an appeals hearing is not held within this time, the applicant may appeal directly to the State Building Code Appeals Board. The board must adopt rules of procedures for conducting its business and will render all decisions and findings in writing to the appellant with a duplicate copy to the building official and to the state building official within five working days of the decision.

Qualifications

The local board of appeals consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the affected jurisdiction.

Limitations on Authority

An application for appeal must be based on a claim that the true intent of the code or the rules legally adopted has been incorrectly interpreted, or that the provisions of the International code do not fully apply. The board has no authority to waive requirements of the code.

Application for Appeal

Any person directly affected by a decision of the building official, or a notice or order issued under the codes, shall have the right to appeal to the local board of appeals, provided that a completed written application for appeal is filed within 20 days after the day of decision, notice, or order was served.

Final interpretive Authority

The state building official has final interpretive authority for all codes adopted as part of the code except for the plumbing code when enforced by the Commissioner of Health, the electrical code when enforced by the State Board of Electricity, and the property maintenance code when adopted by the local municipality. A request for final interpretation must come from a local or state level building code board of appeals. The procedures for final interpretations by the state building official are as established in Minnesota Statutes, section 16B.63.

Liability

The building official, member of the Board of Appeals, or employee charged with the enforcement of the code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by the code or other pertinent laws or ordinances, is not rendered personally liable and is relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate is not liable for cost in any action, suit, or proceeding that is instituted in pursuance of the code.

Alternate Members

The Spring Lake Park City Council will appoint two or more alternate members who can be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members must possess the qualifications required for board membership.

Chairman

The board will annually select one of its members to serve as chairman.

Disqualification of Member

A member must not hear an appeal in which that member has a personal, professional or financial interest.

Secretary. The Spring Lake Park City Administrator must designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the City of Spring Lake Park.

Compensation of Members

There will be no compensation for serving on the Appeals Board as it is considered a volunteer position.

Notice of Meeting

The board must meet upon notice from the Secretary, within 15 days of the filing of an appeal, or at stated periodic meetings.

Open Hearing

All hearings before the board must be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

Procedure

The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures will not require compliance with strict rules of evidence, but will mandate that only relevant information be received.

Postponed Hearing

When the full board is not present to hear an appeal, either the appellant, the appellant's representative, or Appeals Board Chairman will have the right to request a postponement of the hearing.

Board Decision

The board can modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

Records and Copies

The decision of the board must be recorded. Copies will be furnished to the appellant and to the code official.

Administration

The code official must take immediate action in accordance with the decision of the board.

Court Review

Any person, whether or not a previous party of the appeal, will have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review must be made in the manner and time required by law following the filing of the decision in the office of the Spring Lake Park City Administrator.

Stays of Enforcement

Appeals of notice and orders (other than Imminent Danger notices) will stay the enforcement of the notice and order until the appeal is heard by the appeals board.