

CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING CODES

6-1-1 **ADOPTION OF INTERNATIONAL RESIDENTIAL CODE.** A certain document, **one (1) copy** of which was heretofore placed on file in the office of the City Clerk, being marked and designated the International Residential Code, 2003 edition, as published by the International Code Council, Incorporated, is hereby adopted as the Building Regulations of the City, for the control of building one- and two-family dwelling structures as herein defined, and each and all of the regulations, provisions, penalties, conditions and terms of the International Residential Code, 2003 edition, are hereby referred to, adopted and made a part hereof, as if fully set forth in this Chapter, subject to the modifications, exceptions and additional regulations set out in **Section 6-1-2** hereof.

6-1-2 **AMENDMENT TO CODE.** Modification to the text of the International Residential Code, 2003 edition, are as follows:

(A) **Section 101.1.** Title: Insert “City of Newton” for (name of jurisdiction).

(B) **Section 101.3.** Purpose. Is hereby deleted and the following inserted in lieu thereof:

PURPOSES. The purposes of these regulations are to protect the health, safety and general welfare of the persons and property of the citizens of Newton, Illinois, as well as the property and rights-of-way of the City, by determining whether any proposed construction, placement, alteration, removal or demolition of any building, mobile home or other structure within the City limits will be done in compliance with the City code, specifically including but not limited to **Chapter 15 - Flood Plain Code** and **Chapter 34 - Subdivision Code** of the City Code, applicable State and Federal Codes, and will not damage or encroach upon City property, City utilities or City rights-of-way or interfere with or cause drainage or flooding problems.

(C) **Section 103.** Department of Building Safety is hereby deleted and the following is inserted in lieu thereof:

Building Permit Committee.

(A) There is hereby created a committee of the City Council to be known as the “Building Permit Committee,” said committee to be appointed by the Mayor with the advice and consent of the City Council and to consist of not less than **three (3) members** of the Council. Such committee shall be appointed annually and shall serve until their successors are appointed.

(B) The Building Permit Committee is hereby directed and empowered to adopt rules and regulations for the use of the Building Official in his or her capacity as the “Building Official” in order that enforcement of said regulations requiring the issuance of building permits under the terms of this Chapter shall be uniformly enforced upon all of the residents of the City.

(C) The Building Permit Committee is hereby directed to adopt said rules and regulations after presenting the same to the Mayor and the City Council. If the Mayor and City Council shall approve said rules and regulations, the committee is directed to have the same printed or mimeographed in book or pamphlet form for the use of the Building Official of the City.

(D) The Building Permit Committee is hereby authorized from time to time to make such recommendations for changes and alterations in said rules and regulations as may best carry out and implement the spirit of this Chapter in order that damage to property and persons in the City shall be minimized.

(D) Section 108.2. Schedule of permit fees is hereby deleted and the following inserted in lieu thereof:

Schedule of permit fees. On buildings, structures, electrical, and mechanical a fee for each permit shall be paid as required, in accordance with the schedule as established by the Building Permit Committee.

Starting construction without a valid permit. The fee shall be **One Hundred Dollars (\$100.00)** per day for every day without a valid permit.

Re-inspections fee. When additional inspections are necessary, due to inaccurate, incomplete, incorrect information or failure to make necessary repairs, or faulty installations, a charge of **Fifty Dollars (\$50.00)** shall be made for each such inspection.

Fee for Appeal. The fee for appeal shall be **Eighty Dollars (\$80.00)**.

The fee for one and two-family dwellings shall be **Seventy-Five Dollars (\$75.00)**.

The fee for commercial construction shall be **One Hundred Dollars (\$100.00)**.

The fee for multi-family shall be **One Hundred Dollars (\$100.00)**.

The fee for accessory structure greater than **one hundred (100) square feet** shall be **Twenty-Five Dollars (\$25.00)**.

The fee for electrical service upgrade shall be **Twenty-Five Dollars (\$25.00)**.

The fee for mechanical shall be **Twenty-Five Dollars (\$25.00)**.

There shall be no fee for accessory structures less than **one hundred (100) square feet** or demolition.

Additionally, if due to the complexity of the building design a professional inspection service must be utilized, the owner will be assessed and inspection fee equal to the cost of the inspection service.

(E) Section 112. Board of Appeals is hereby deleted and the following inserted in lieu thereof:

Right to Appeal.

(A) Any person, firm or corporation who has been denied a building permit by the Building Official may request and shall be granted a hearing on the matter before the Building Permit Committee; provided that such person, firm or corporation shall file in the office of the City Clerk a written petition requesting such hearing and containing a statement of the grounds therefore within **twenty (20) days** after the issuance of the building permit has been denied.

(B) The Building Permit Committee shall hear all appeals relating to the denial of a building permit and by a concurring vote of the majority of its members may reverse or affirm wholly or partly, or may modify, the decision of the Building Official appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring vote shall be deemed a confirmation of the decision of the Building Official. The decision of the Building Permit Committee shall constitute the final decision of the City relative to the appeal.

(C) A member of the Building Permit Committee shall not participate in any hearings or vote on any appeal in which that member has a direct or indirect financial interest or is engaged as a contractor, or is engaged in the preparation of plans and specifications, or in which the member has any personal interest.

(D) The Secretary of the Building Permit Committee shall keep a record of each meeting so that the records show clearly the basis for each decision made by the Building Permit Committee.

(E) All meetings of the Building Permit Committee shall be held at the call of the Chairman and at such times as the Committee may determine, provided that the establishment of the meeting date, time and locations are consistent with the overall intent of the Section and are in accordance with the Illinois Open Meetings Act and other applicable State laws.

(F) Section 113.4. Violation Penalties is hereby deleted and the following inserted in lieu thereof:

Section 113.4. Violation Penalties. Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a petty offense, punishable by a fine of not less than **Seventy-Five Dollars (\$75.00)** and not to exceed **Seven Hundred Fifty Dollars (\$750.00)** at the discretion of the court. Each day said violation exists shall be deemed a separate offense.

(G) **Section 114.2.** Unlawful Continuance is hereby deleted and the following inserted in lieu thereof:

Section 114.2. Unlawful Continuance. Any person who shall continue any work on or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a petty offense, punishable by a fine of not less than **Seventy-Five Dollars (\$75.00)** and not to exceed **Seven Hundred Fifty Dollars (\$750.00)** at the discretion of the court. Each day a violation continues after due notice has been served, in accordance with terms and provisions hereof, shall be deemed a separate offense.

(H) **Table R 301.2(1)** insert the following values in the table:

Ground snow load:	20 pounds per square foot
Wind speed:	70 miles per hour
Seismic design category:	"C"
Weathering:	Severe
Frost line depth:	36 inches
Termite:	Moderate to heavy
Decay:	Slight to moderate
Winter design temperature:	2 Degrees F
Ice shield underlayment required:	Yes
Flood Hazards:	Yes see Chapter 15 of the Newton
Air freezing index:	1055
Mean annual temperature:	53.4

(I) Chapters 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 are hereby deleted without substitution.

(J) Appendix Chapters A, B, C, D, E, F, G and H are adopted as part of the code as if fully set forth in this document.

(K) **Section R105.5. Expiration of Permit.** Every permit issued shall become invalid unless the work authorized by such permit is commenced and completed within **thirty (30) days** after its issuance. The City Council, upon written request and demonstration of justifiable cause, may grant an extension of time not to exceed **thirty (30) days.** (Ord. No. 15-06; 07-07-15)

6-1-3 EFFECT ON EXISTING ORDINANCES, REMEDIES.

(A) This Code establishes minimum requirements for the initial and continued occupancy and use of all structures and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration, or use of structures, equipment, or facilities.

(B) The provisions in this Code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein.

(C) The provisions in this Code shall not be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, and unsanitary.

(D) This Code shall not effect violations of any other ordinances, codes, or regulations existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

6-1-4 ADOPTION OF NATIONAL ELECTRICAL CODE AND STANDARDS.

(A) **National Electrical Code.** There is hereby adopted by reference the National Electrical Code, 2002, NFPA 70, as published by the National Fire Protection Association and made a part of this Chapter as if the same were set out herein.

(B) **Standards.** The safe and practical standards and specifications for the installation, alteration, and use of electrical equipment, also all the rules and regulations governing the issuance of permits by the building official, also the reasonable fees to be paid for the inspection of all electrical equipment installed or altered in the City deemed to be the minimum requirements for the protection of the health, welfare, and safety of the community in new and rewired electrical installments, are provided in this Code.

6-1-5 AMENDMENTS TO NATIONAL ELECTRIC CODE. Modification to the text of the National Electric Code, 2002 Edition, are as follows:

Article 80 is not adopted and is removed without substitution from the National Electric Code, 2002 Edition.

(Ord. No. 11-19; 11-01-11)

ARTICLE II - DANGEROUS AND/OR DILAPIDATED BUILDINGS

6-2-1 **DEFINED.**

(A) Any dangerous and/or dilapidated building in the City is hereby declared to be a nuisance. It shall be unlawful to maintain or permit the existence of any dangerous and/or dilapidated building in the City; and it shall be unlawful for the owner, occupant, or person in custody of any dangerous and/or dilapidated building to permit the same to remain in a dangerous and/or dilapidated condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous and/or dilapidated condition.

(B) The term "dangerous and/or dilapidated building" as used in this Article is hereby defined to mean and include:

- (1) Any building, shed, fence, or other man-made structure that is dangerous to the public health because of its construction or condition, or which may cause or aid in the spread of disease or cause injury to the person or property of persons who occupy, enter, or are in the vicinity of the structure.
- (2) Any building, shed, fence or other man-made structure, which, because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire and constitutes or creates a fire hazard.
- (3) Any building, shed, fence or other man-made structure, which, by reason of faulty construction, age, lack of proper repair, or any other cause is liable to cause injury or damage to persons or property by collapsing or by a collapse or fall of any part of such a structure.
- (4) Any building, shed, fence or other man-made structure, which, because of its condition or because of lack of doors, windows, walls, or other defects is open to entry by animals, birds, minors, trespassers, malefactors, disorderly persons, or other persons who are not lawful occupants of such structure.
- (5) Any building, shed, fence or other man-made structure, which, by reason of faulty construction, age, lack of proper repair, or any other cause does not meet State or Local Building Codes, Electric Codes, Plumbing Codes, or other Health and Safety codes.

(C) Whenever the Chief of Police or any person designated by him, upon inspection of any building or structure in the City shall determine that such building or structure in the City is a dangerous building, he shall thereupon post a Notice upon the building condemning the building and shall cause written Notice to be served upon the owner thereof and upon the occupant thereof, if any, by registered or certified mail to the last-known address or by personal service. The date of service of notice by mail shall be the date on which the Notice is mailed. The Notice shall indicate that the building has been declared to be in a dangerous condition, and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied immediately and without delay.

No person shall remove, alter, or deface any Notice required to be posted pursuant to this Article. If the Notice given hereunder has not complied within **ten (10) days** from the date when the Notice is served, the City may proceed to remedy the condition or demolish the dangerous building; except as specifically otherwise provided herein, the City may demolish, repair, or cause the demolition or repair of a dangerous and dilapidated building as provided within **65 ILCS 5/11-31-1**.

(D) Notwithstanding any other provision herein, the Chief of Police may declare a specific structure to be a nuisance constituting an imminent danger to health, safety, and life and authorize demolition as provided herein.

(E) If a structure constitutes a dangerous and dilapidated building as defined within paragraph (B)(4) above, the Chief of Police may upon written request of the owner permit the temporary boarding up of said structure subject to the following provisions.

- (1) No structure shall be boarded up for a period in excess of **ninety (90) days** from date of service of the Notice. Within said **ninety (90) day** period, the owner shall repair the structure and bring said structure into full compliance with City Ordinances and Building Codes or the owner shall demolish the structure.
- (2) All exterior openings in a building structure larger than **one (1) square inch** in size must be covered with a minimum of **one-half (1/2) inch** thick exterior grade plywood, masonite, or equivalent strength sheet-like material that is rated and labeled for use in direct contact with weather. Fastening devices may be nails or screws not less than **one and one-half (1 ½) inch** in length and shall not be spaced more than **six (6) inches** apart around the perimeter of each sheet of material.
- (3) The boarding up of a building shall not be a defense to a demolition proceeding, nor may the Court order a dangerous or dilapidated building boarded up. The boarding up of a building shall be an admission by the owner or occupant that the building or structure is a dangerous or dilapidated building.

Upon the Chief of Police determining that it is necessary to immediately remedy a dangerous condition arising from a dangerous and/or dilapidated building as defined in paragraph (B)(4) above, the Chief of Police, with or without notice, may cause a structure to be boarded up through any available public agency or by contract or arrangement with private persons; and all associated direct costs thereof shall be assessed against the owner of the structure and shall be charged against the real estate upon which the structure is situated and shall be a lien upon such real estate.

(F) Any building or structure which has been damaged by fire, decay, or other cause to the extent of **fifty percent (50%)** of its value, shall be torn down and removed. Upon determination by the Chief of Police that a building or structure has been damaged to the extent of **fifty percent (50%)** of its value, a Notice shall be served upon the owner of the premises by personal service or by registered or certified mail to his last-known address. Such Notice shall notify the owner that the building has been damaged by fire, decay, or other cause to the extent of **fifty percent (50%)** of its value and that the building must be demolished within **ten (10) days** from date of this Notice and that the building must be immediately vacated and not occupied. It shall be unlawful for any person to occupy or to permit such building to be occupied after service of Notice. This subsection shall not be a limitation upon any other provisions of this Article.

If the Notice given herein shall not be complied with within **ten (10) days** from the date when the Notice is served, the City may proceed to demolish the building in the same manner as provided for the demolition of a dangerous and/or dilapidated building.

(G) In addition to the actions authorized by other sections of this Article, the Chief of Police, or any other municipal officer whose duty is to investigate fires, may make the investigation authorized by statute found in the Fire Investigation Act, **425 ILCS 10.01 et seq.** If such officer shall find that any building or structure is so occupied or situated as to endanger persons or property, or by reason of faulty construction, age, lack of repair, or for any cause is especially liable to fire, or is liable to cause injury by collapsing or otherwise, he shall order the dangerous situation removed or remedied, and shall so notify the owner or occupant of the premises. Service of such notice may be in person or by registered or certified mail to the last-known address, and any person so notified may appeal from the decision of such office in the manner provided by law.

(H) Any person, firm, or corporation violating any provision of this Article, or permitting any dangerous building, or structure, to remain in a dangerous and/or dilapidated condition, shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

(Ord. No. 10-8; 05-04-10)

ARTICLE III - BUILDING DEMOLITION INCENTIVES

6-3-1 **PROGRAM ESTABLISHED.**

(A) A property owner who causes the demolition and disposal of a dangerous and/or dilapidated building within the City shall be eligible to receive reimbursement in an amount not to exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** per lot for the owner's costs in utilizing dumpster(s) to remove the materials and debris generated by the demolition and disposal of the dangerous and/or dilapidated building. As a condition to reimbursement, the property owner must submit a before and after picture of the lot evidencing the demolition and disposal of the dangerous and/or dilapidated building and a copy of the paid receipt for the dumpster(s) cost incurred by the owner for the said demolition and disposal. Qualification for reimbursement and the amount of reimbursement up to the maximum of **Two Thousand Five Hundred Dollars (\$2,500.00)** per lot shall be subject to the approval of the City Council in its sole discretion.

(B) For City improvement purposes, the City intends to budget **Fifteen Thousand Dollars (\$15,000.00)** of its Capital Development Funds for property maintenance and legal fees associated therewith. City may in its sole discretion after approval by the City Council and after title verification accept dangerous and/or dilapidated buildings and the lands upon which they are located from the owner(s) of such property. The City may then demolish or cause to be demolished the structures located on said lands and remove or cause to be removed the debris resulting from such demolition. The City may at any time before or after demolition convey, transfer or otherwise dispose of the lands as the City Council in its sole discretion shall determine. In the event the City determines not to accept title to a property upon which it agrees to demolish structures located on the lands and remove or cause to be removed the debris resulting therefrom as authorized by Ordinances, the City may place a lien on the lands for the amount of its costs, including legal fees and other necessary expenses, incurred in causing the structure(s) to be demolished and removed from the City. **(Ord. No. 15-01; 02-17-15)**
(Ord. No. 13-12; 12-17-13)

6-3-2 **ANNUAL BUDGET.** The City may budget all of its gaming revenue from the State of Illinois for dumpster reimbursement and/or other beautification projects, all subject to Council approval. **(Ord. No. 15-01; 02-17-15)**

6-3-3 **REIMBURSEMENT FOR COSTS.** Priority for reimbursement under the provisions of this Article shall be on a "first come first served basis" of receipt by the City Clerk of the required paid receipts and pictures above described.

6-3-4 **T.I.F. DISTRICT RESTRICTIONS.** It is further a condition of reimbursement under this Article that the lots upon which the dangerous and/or dilapidated building is demolished and removed cannot be located in a T.I.F. or Enterprise Zone. It is further a condition of reimbursement that the property owner must have complied with all City, County, State and Federal rules and regulations in any way related to the demolition and disposal of buildings and/or building materials.

(Ord. No. 09-6; 06-16-09)

ARTICLE IV - INTERNATIONAL PROPERTY MAINTENANCE CODE

6-4-1 **ADOPTION OF CODE.** A certain document, **three (3) copies** of which were heretofore placed on file in the office of the City Clerk, being marked and designated the International Property Maintenance Code, 2003 edition, as published by the International Code Council, Incorporated, is hereby adopted as the Property Maintenance Code of the City, for the regulation and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, the demolition of such existing structures in the City of Newton; as herein defined, and each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance Code, 2003 edition, are hereby referred to, adopted and made a part hereof, as if fully set forth in this Chapter, subject to the modifications, exceptions and additional regulations set out in **Section 6-1-2** hereafter.

6-4-2 **AMENDMENT TO CODE.** Modification to the text of the International Property Maintenance Code, 2003 edition, are as follows:

(A) **Section 101.1.** Title: Insert "City of Newton" for (name of jurisdiction).

(B) **Section 103.1.** General. Is hereby deleted and the following inserted in lieu thereof:

GENERAL. The Department of Property Maintenance Inspection is hereby created and the executive official in charge thereof shall be known as the Code Official (Chief of Polic or other designee of the City).

(C) **Section 103.2.** Appointment is hereby deleted and the following inserted in lieu thereof:

Appointment. The Code Official shall be appointed by the Mayor with the advice and consent of the City Council.

(D) **Section 103.3.** Deputies is hereby deleted and the following inserted in lieu thereof:

Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the City Council, the Code Official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

(E) **Section 103.5.** Fees is hereby deleted without substitution.

(F) **Section 106.4.** Violation Penalties is hereby deleted and the following inserted in lieu thereof:

Violation Penalties. Any person, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by **Section 1-1-20**. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Prosecution of Violations. Any person failing to comply with a notice of violation or order served in accordance with this Code shall be deemed guilty of an Ordinance Violation, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

(G) **Section 110.3.** Failure to Comply is hereby deleted and the following inserted in lieu thereof:

Failure to Comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Official,

(A) May, with City Council approval, cause the structure to be demolished and removed either through an available public agency or by contract or arrangement with private persons, and the costs of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate, or

(B) May initiate the appropriate proceedings at law or equity to compel compliance with the demolition order, and

(C) Shall seek recovery from the owner of the condemned premises by lien on the real estate or Court Order, all attorney's fees, code official fees and expenses and all other expenses of the City in enforcing its demolition order or causing the demolition and removal.

(Ord. No. 12-2; 02-21-12)

(H) **Section 304.14.** Insect Screens is hereby deleted without substitution.

(I) **Section 602.3.** Heat Supply. Insert 09/01 to 06/01 for Dates.

(J) **Section 602.4.** Occupiable work spaces is hereby deleted without substitution.

6-4-3 EFFECT ON EXISTING ORDINANCES, REMEDIES.

(A) This Code establishes minimum requirements for the initial and continued occupancy and use of all structures and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration, or use of structures, equipment, or facilities.

(B) The provisions in this Code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein.

(C) The provisions in this Code shall not be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, and unsanitary.

(D) This Code shall not effect violations of any other ordinances, codes, or regulations existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

(Ord. No. 11-18; 11-01-11)

ARTICLE V – BOARD OF APPEALS

6-5-1 **GENERAL PROVISIONS.**

(A) These rules and procedures are supplementary to the provisions of the Building Code of Newton, Illinois, Chapter 6, as amended from time to time, as they relate to the procedures of the Building Code Board of Appeals (“BCBA” or the “Board”), and are adopted pursuant to the authority vested in the Building Code Board of Appeals contained in Chapter 6 of the City Code.

(B) Any member of the BCBA who has any interest (i.e., personal, professional, or financial) in a matter before the Board shall remove himself/herself from his/her place on the Board at any meeting or hearing at which said matter is under consideration. Said member may remain at the meeting or hearing but shall not participate or vote in any proceedings on such a matter, and in no event shall his/her physical presence be counted in establishing whether a quorum is present. An alternate member shall be appointed to fill any position as provided in the Building Regulations.

(C) The BCBA adopts and shall follow the Rules of Parliamentary Practice contained in Chapter 1 of this Code.

(D) The Board of Appeals shall consist of **five (5) members** who shall be chosen from the Zoning Board of Appeals.

6-5-2 **GENERAL BUSINESS MEETINGS.**

(A) The Board shall meet at stated periodic meetings or a general business meeting may be called by the Chairman for due cause at his/her discretion, or upon the request of **two (2)** or more members provided that **forty-eight (48) hours’** notice is given to each member.

(B) Meetings and hearings may be recessed to another date by the BCBA by motion for lack of a quorum or for convenience of the parties resulting from a lengthy session.

(C) All meetings shall be open to the public whenever any official action is to be taken.

(D) A quorum for a meeting shall consist of **three (3) members**.

(E) No action may be taken on an off-agenda item unless a majority of those Board members present determine there is a need to take immediate action and that the need for action came to the attention of the Board subsequent to the posting of the agenda. It is inevitable that subjects will arise, during the course of consideration of the agenda items, on which no action can be prudently taken immediately. In such event, the Chairman shall have the power to refer the matter to staff, or place the item on the agenda of a future meeting or both.

(F) Other than as specified for appeals, a majority vote of the Board shall be necessary to make a decision.

6-5-3 **PROCEDURES ON APPEAL.**

(A) Any person affected by a decision of a Code Official or a notice or order issued under this Code (Chapter 6) shall have the right to appeal to the BCBA, provided that a written application for appeal is filed in within **twenty (20) days** after the day the decision, notice or order was served, and the application fee paid. The written application shall be on the prescribed form kept by the Secretary to the Board, and the applicant shall provide all required information and shall sign the form (or shall be signed by his/her attorney or agent).

(B) 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 duly apply, or the requirements of this Code are adequately satisfied by other means.

(C) The fee for an application of appeal is **Fifty Dollars (\$50.00)** and shall be paid at the time application is filed and shall be non-refundable.

(D) If the appellant submits any additional written or printed material for the BCBA’s consideration less than **three (3) business days** prior to the date of hearing on the matter, the Board may continue the matter and the appellant shall be deemed to have consented to such a continuance.

(E) Any communication purporting to be an appeal that is not on the prescribed form, not signed, or the fee was not paid shall be regarded as a mere notice to seek relief, and shall not be considered a filed appeal, and may not be acted upon by the Board.

(F) The Board may dismiss an appeal for lack of prosecution in which the appellant fails to appear for the hearing or fails to file a written request for a continuance for good cause.

(G) The Code Official shall make all papers constituting the records upon which the action appealed from was taken a matter of public record.

(H) The appellant shall not only provide that information required on the appeal application form but shall also provide any additional information that may be required or requested by the Board to aid it in reaching a decision.

(I) The original appeal application and attachments thereto plus **six (6) copies** of the appeal and attachments shall be prepared and filed with the Secretary to the Board.

(J) Upon receipt of the properly filed appeal application form and payment of fee, the Secretary to the Board shall assign the matter a case number and place it on the calendar of the Board for hearing within the time frame allotted. Applications for appeals shall be assigned for hearing in the order in which they are received.

(K) At any public hearing of an appeal before the Board, the appellant shall appear on his/her own behalf and may be represented by legal counsel. The Code Official shall first present the case for the County and his/her reasons for his/her decision. The Code Official/County may be represented by legal counsel before the Board. The appellant's side of the case shall then be heard. Then the Code Official/County's rebuttal shall be heard, following by the appellant's rebuttal. To maintain orderly procedure, each side shall proceed without interruption by the other. Repetitious and accumulative testimony shall be avoided. Testimony or comments from those not named on the appeal form shall be heard only if recognized as appropriate by the Chairman. The Board, any of its members, or the Board's legal counsel may ask questions of the Code Official and/or the appellant at any time during the hearing.

(L) All persons attending meetings of the Board will be asked to identify themselves, and address Board members or other persons present through the Chairman.

(M) All exhibits (i.e., maps, letters, documents) considered by the Board at any hearing shall become a part of the record of the Board.

(N) If either the County or the appellant desires to present expert testimony at a hearing, the party calling such witness shall be at least **five (5) days** prior to the hearing identify in writing the name and address of said individual to the other party and the Board and also provide his/her opinions to be elicited and the bases therefor. This rule does not apply to the testimony of the Code Official.

(O) Any testimony presented to the Board by the appellant, the County, or any other person shall be under oath.

(P) The Illinois Rules of Evidence and their applicability to any testimony, evidence, or exhibit submitted to the Board shall be relaxed. The Chairperson shall rule on any objection to testimony, evidence, or exhibit, and the admissibility of any testimony, evidence, or exhibit presented to the Board.

(Q) The Board's decision regarding an appeal is governed by Article I of this Chapter.

6-5-4 AMENDMENTS.

(A) Amendments to these rules and procedures may be made by the Board at any regularly called meeting or any special meeting by the affirmative vote of **four (4) members**, excluding alternate members.

(B) The suspension of any rule or procedure may be ordered at any meeting or hearing by a vote of **two-thirds (2/3)** of the Board members present.