

15.01.040 Board Of Appeals And Examiners

- A. Appointment. In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation on the inclusive Building Code, to review all prospective changes to the respective codes and to submit recommendations to the responsible official and the city commission, to review requests for house moves, demolitions, repairs and maintenance, and to examine applicants for licensing and to investigate matters brought before the board, there shall be and is hereby created a board of appeals and examiners, which shall not include any individual employed by the city. Members shall be appointed by the mayor with consent of the city commission and shall hold office for three-year terms. The board shall adopt rules of procedure for conducting its business, and shall render all decisions in writing to the appellant, with a duplicate copy to the building official.
- B. Limitation of Authority. An application for appeal shall be based on a claim that the true intent of the Building Code, or the rules legally adopted thereunder, have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good, or better form of construction, repair, et cetera is proposed. The board shall have no authority relative to the administrative provisions of the code, nor shall the board be empowered to waive requirements of the code.
- C. Appeals. Any decision by the board of appeals may be appealed directly to the city commission. The city commission shall have authority relative to the administrative provisions of the code, and shall be empowered to waive requirements of the code. Any application for appeal to the city commission may be based on a claim that the true intent of the Building Code, or the rules legally adopted thereunder, have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good, or better form of construction, repair, et cetera is proposed. Following the decision by city commission, an applicant who desires to appeal a decision of the city commission shall file an appeal with the county circuit court within thirty (30) days after the determination of the issue by the city commission in the matter provided by law.
- D. Prosecution of Violation. If the notice of violation is not complied with promptly, the building official is authorized to request the city commission to deem the violation as a strict liability offense and 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 building or structure in violation of the provisions of the Building Code, or of the order or direction made pursuant thereto.
- E. Liability. The building official, members of the board of appeals, or employees charged with the enforcement of this code, while acting for the city in good faith and without malice in the discharge of the duties required by the Building Code, or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby 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 office or employee because of the act performed by that officer or employee in the lawful discharge of duties and under the provisions of the Building Code shall be afforded all the protection provided by the city's insurance pool and any immunities and defenses provided by the other applicable state and federal law. The building official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

The Building Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of inspection authorized by this code or any permits or certifications issued under this code.

(Ord. 1258, 2017; Ord. 1187, 2013)