

Hearings for the Board of Appeals are normally scheduled on the second Wednesday of each month at 1:30 p.m. in the 8<sup>th</sup> floor conference room in the St. Louis County Lawrence K. Roos Building, 41 S. Central Ave., Clayton, MO 63105

Completed appeals forms must be received no later than ten (10) working days prior to the date of the scheduled meeting. The current fee is \$150. Make check or money order payable to Treasurer of St. Louis County.

Questions for filing an appeal should be directed to Robbin Baer, Recording Secretary, 314-615-7784.

RULES & REGULATIONS  
ON  
BOARD OF APPEALS HEARINGS  
Adopted 8/14/02

Updated  
01/02/20

2/1/12 (Fee to File Appeal)

## ***St. Louis County Board of Appeals***

*The St. Louis County Building Commission performs functions as the Board of Appeals for those persons aggrieved by the decision of the Code Official or Licensing Board(s), as related to the enforcement of provisions of the St. Louis County Building, Mechanical, Electrical, Plumbing & Property Maintenance Codes. These provisions are contained in the Revised Ordinances of St. Louis County as follows:*

- Building Code, Chapter 1115*
- Mechanical Code, Chapter 1108*
- Electrical Code, Chapter 1102*
- Plumbing Code, Chapter 1103*
- Property Maintenance Code, Chapter 1110*

*It is the purpose of these Rules & Regulations to establish the procedures and requirements wherein, the Building Commission/Board of Appeals will receive applications, give public notice, conduct hearings and render decisions on appeals.*

## **Applications to Hear Appeals**

### **Application Form**

The form of application shall be as prescribed by the code official. A copy of the current application to be utilized is shown on Appendix "B" (Attached).

### **Content of Application Form**

The application shall be completed in detail and accompanied by the prescribed appeals fee in order for the Board to conduct the hearing and consider the appeal. The application shall be accompanied by the written letter or notice of decision of the code official or Licensing Board that is being appealed as well as documentation that the applicant feels will support or clarify the appeal.

### **Filing of Application Form**

The fully completed application and accompanying documentation must be filed in the office of the Secretary to the Board of Appeals, (Director of Public Works) on the 6th fl. of the Administration Building, 41 S. Central Ave., St. Louis, MO 63105, within the following timelines:

- Such filing shall be made a minimum of ten working days prior to the first available meeting at which such appeal will be heard.
- Such filing shall be made within thirty - days (30) of notification of the decision of the code official or Licensing Board that is being appealed. **See Section 113.6.1 "Board of Appeals", below.**

### **Notification of Hearing on Appeal**

Appeals shall be advertised in one publication of the Missouri Lawyer's Media, at least seven days in advance of the hearing on that appeal. **See Section 113.7 "Board of Appeals", below.**

A public notice of the hearing on appeal will be posted on the bulletin board (lobby of Administration Building), no later than 24 hours prior to the meeting. (See Sunshine Law)

## Board of Appeals

The following information is an unofficial abstract of the "Means of Appeal" provisions (Section 113), of St. Louis County Ordinance 27,654, related to the adoption of the International Building Code. These provisions shall be applicable to all appeals to the Board of Appeals. In some cases, language from appeals provisions on other codes has been added. When this occurs, such language is in italics.

- 113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official *or Board of Electrical Examiners, or Board of Plumbing Examiners* relative to the application and interpretation of this code; (*applicable Building, Mechanical, Electrical, Plumbing or Property Maintenance Codes*); the Building Commission shall act in the capacity of a Board of Appeals for this Code (*the applicable code*). The Board shall adopt rules of procedure for conducting its business.
- 113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted there under, have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this Code.
- 113.3 Membership of Board. The Board of Appeals shall consist of the members of the Building Commission.
- 113.4 Disqualification of a Member. A member shall not hear an appeal in which that member has any personal, professional or financial interest.
- 113.5 Chair, Vice Chairman and Secretary. The Board shall select one of its members to serve as Chairman and one to serve as Vice Chairman. Both the Chairman and the Vice-Chairman will have full voting privileges on all matters to come before the board. The code official shall designate a representative of the Department of Highways & Traffic and Public Works to serve as Secretary to the Board, who shall keep a detailed record of all proceedings on file in the Department of Public Works.
- 113.6 Application. The application for appeal shall be filed in writing on a form obtained from the code official.

- 113.6.1 Time Limitation and Filing Procedure. All appeals shall be filed in writing with the code official. An application for appeal may not be filed more than thirty-days (30) after the affected individuals are notified of the code official's decision.
- 113.6.2 Filing Fee. An application for appeal may not be filed without full payment of the filing fee prescribed in Table 1100.130 of Chapter 1100, SLCRO 1974 as amended.
- 113.7 Notice of Hearing on Appeal. The board shall meet upon notice of the chairman and no later than thirty-days (30) after the notice of appeal is received by the code official or at stated periodic meetings of warranted by the volume of work. The board shall give notice of all appeals by one publication in a newspaper of general circulation in the County, at least seven days in advance of the hearing on that appeal.
- 113.8 Postponed Hearing. When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- 113.9 Procedure. Hearings shall be conducted in accordance with the requirements of Chapter 536 RS. Mo.
- 113.9.1 Open Hearing. All hearings before the board shall 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.
- 113.10 Quorum Required. A quorum for the conduct of a hearing before the Building Commission shall consist of three members of the Board.
- 113.11 Notification of Decision. The Secretary of the Board shall notify the appellant of the decision of the Board in writing and in a timely manner.
- 113.12 Judicial Review. Decisions of the Board of Appeals are subject to judicial review pursuant to Chapter 536 RS. Mo.

## **Conducting Hearings**

The Chairman of the Board of Appeals or some other member of the Board will be designated as the person ruling on objections and monitoring the proceedings. He will open the hearing, time the opening statements, make rulings on objections, etc., though he is free and welcome to confer with the other members present and consider their input before making a ruling.

### **Exhibits**

All exhibits must be marked and shown to the other party. Usually, attorneys will bring enough copies for the Board, the opposing counsel and their witness. It is probably most efficient if all exhibits are marked by the parties in advance and any that can be stipulated to (agreed upon by both sides) can be admitted immediately without any testimony. (See the following instructions on receiving exhibits).

### **Swearing of Witnesses**

All witnesses must be sworn. The Chairman of the Board of Appeals is authorized to administer oaths and will swear each witness before they start talking. This includes the County employee(s) and the person who filed the appeal. If the Appellant does not have an attorney, he/she will be sworn in before he or she starts telling his or her side. (See the following instructions on swearing in witnesses).

### **Witnesses**

All witnesses are subject to cross-examination by the opposing side. If the appellant does not have an attorney, the Board will instruct the appellant that this is NOT the time for the appellant to tell his or her side of the story, but to ASK QUESTIONS of the particular witness. If the appellant has no questions for the witness, the hearing will continue and the appellant will be given an opportunity to give their testimony at the proper time.

### **Appellant May be Called as Witness**

The appellant may be called as a witness and examined by the County as if under cross-examination.

### **Disruptive Behavior**

Parties will not be allowed to interrupt one another. The tape recorder can only record one person talking at a time. In the interest of an accurate record, there should never be two people talking at once. All parties will be given an opportunity to respond at the proper time. Parties will not be allowed to argue with each other. All comments are to be civil, professional and directed to the Board.

### **Objections**

A party who objects must state the basis for the objection. (See above - ruling on objection).

When an objection is made, the witness is to remain quiet until the board member who is monitoring the hearing rules on the objection. If requested, the counsel for each side may wish to comment as to why the objection should be sustained or overruled.

Any evidence received without objection, which is relevant, will be considered by the Board along with the other evidence in the case. If hearsay is objected to, the Board will not give any weight to such evidence in reaching its decision. Hearsay, which is not objected to, may be considered by the Board.

### **Additional Questions by Board Members**

The members of the Board may ask the witnesses questions after the witness has been questioned by both sides.



## RECEIVING EXHIBITS

### A. AT THE END OF OPENING STATEMENTS

1. Does the County have any exhibits that they wish to offer at this time?

(Exhibits must be numbered)

(The other side must be given an opportunity to look at the exhibit)

1a. Does the respondent have any objection to Exhibit \_\_\_\_\_

A. Respondent does not object. Exhibit \_\_\_\_\_ will be received; or

B. Respondent's objection is noted for the record. The objection is overruled. Exhibit \_\_\_ will be made a part of the record, subject to the objection; or

C. The objection is sustained. The exhibit is wholly irrelevant to the issues in this case.

2. Does \_\_\_\_\_ have any exhibits that they wish to offer at this time?

(Respondent's exhibits should be lettered)

(Follow same procedure as above for each exhibit)

### B. AS THE HEARING PROGRESSES

(Each party may offer additional exhibits throughout the hearing)

(Make sure the exhibit is properly numbered or lettered)

(Follow same procedure as above)

## Decision of the Board - Findings of Fact Records & Transcripts of Hearings

### Decision of the Board

The Secretary of the Board shall notify the appellant of the decision of the Board in writing in a timely manner. See Section 113.11 above.

### Findings of Fact

The County Counselor's office shall prepare a Findings of Fact concerning the appeal. The Findings of Fact shall be reviewed and confirmed by the Chairman of the Board of Appeals. The Findings of Fact shall then be forwarded to the applicant in a timely manner.

### Records of Appeals

The Recording Secretary of the Building Commission shall prepare general summary of the hearing, including those persons involved at the hearing and the decisions of the Board of Appeals. The Recording Secretary shall also arrange to have a tape recording of the hearing. The general summary of the hearing and the decisions of the Board of Appeals together with the tape recording of the hearing shall constitute the official record of the hearing. This record shall be maintained by the code official. This record shall be available to the appellant under the conditions where the appellant pays for the actual cost of obtaining a copy of tape recording of the hearing.

### Transcripts of Appeals

In the event that an applicant desires to have, a transcript of the hearing prepared and certified by a court reporter; said applicant shall:

- Request that a court reporter be at said hearing. Such request shall accompany the application and include a written agreement for the applicant to pay the cost of the court reporter and any transcripts the applicant desires. Under these conditions, the Secretary to the Commission will arrange for a court reporter to attend the hearing. Or
- Personally arrange for a court reporter to be present at the hearing

### Cost of Transcripts

The applicant shall pay the cost of a court reporter and for preparation of transcripts for those court reporter and transcript services requested by applicant.

APPENDIX "B"

STATE OF MISSOURI

No. \_\_\_\_\_

COUNTY OF ST. LOUIS

DATE: \_\_\_\_\_

TO THE HONORABLE BOARD OF APPEALS

OF ST. LOUIS COUNTY, STATE OF MISSOURI

**Petition for Appeal From a Decision of the Building Official**

Now Comes \_\_\_\_\_  
Owner's Name

\_\_\_\_\_  
Address Zip

And represent to the Board of Appeals that they are the owners of the following described tract of real estate located in St. Louis County and proposed to build upon said tract a structure in accordance with plans and specifications, which are attached.

\_\_\_\_\_

\_\_\_\_\_  
Address of Tract Description

\_\_\_\_\_  
Use Group of Structure (Residence, Business, Warehouse, Manufacturing, etc.)

\_\_\_\_\_  
Zoning Proposed Type of Construction

Name of Architect or Engineer \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Name of Lessor \_\_\_\_\_

Name of Lessee \_\_\_\_\_

The following individual should be contacted if additional information concerning this appeal is required.

NAME: \_\_\_\_\_ PHONE NO. \_\_\_\_\_

ADDRESS: \_\_\_\_\_ ZIP \_\_\_\_\_

\_\_\_\_\_

Particulars of Appeal:

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(CONT'D)

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Your petitioner prays this Honorable Board of Appeals shall modify or reverse the decision of the Building Official of St. Louis County.

Respectfully yours,

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Owner or Agent of Owner

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**Resolution**

The St. Louis County Board of Appeals has hereby resolved that the decision of the Building Official shall be:

- (1) Affirmed
- (2) Reversed
- (3) Modified in accordance with the minutes of the meeting

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

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Chairman