

ARTICLE 150

Board of Appeals

- 150.01 Purpose; Establishment.
- 150.02 Board Membership.
- 150.03 Procedure for Appeal.
- 150.04 Decision of Board.
- 150.05 Judicial Remedies.

CROSS REFERENCES

Adoption of Codes - See International Fire Code Art. 1701
Certificates of Use & Occupancy - See Pennsylvania Uniform Construction Code Art. 1701; Art. 1731.01
Electrical Code - See Pennsylvania Uniform Construction Code Art. 1701
International Property Maintenance Code - See Art. 1733
Plumbing Code - See Pennsylvania Uniform Construction Code Art. 1701
Rooming Houses - Hearing - See Art. 1735.05

150.01 PURPOSE; ESTABLISHMENT

There is hereby created a Board of Appeals whose function it shall be to hear and decide appeals from:

(a) Decisions made by the Fire Department enforcing the provisions of the Codes adopted pursuant to Article 1701 of the Codified Ordinances of the City of Bethlehem; and -

(b) Decisions made by a building official refusing to grant a modification of the provisions of the building code, electrical code, mechanical code, plumbing code, residential code, or property maintenance code covering the manner of construction or materials to be used in the erection, installation, alterations, or repairs or violations existing in a building or structure, pursuant to Articles 1701 and 1733 of the Codified Ordinances of the City of Bethlehem, except that there shall be no right of appeal from a notice of violation alleging a violation of the International Property Maintenance Code of 2009; and -

(c) Decisions made by a City official and/or City department where by City ordinance, a right of appeal has been created from such decisions to the Board of Appeals.

(Ord. 4156. Passed 11/6/2002; Ord 4282. Passed 10/19/2004; Ord. 2017-36. Passed 12/5/2017)

150.02 BOARD MEMBERSHIP

(a) The Board of Appeals shall consist of five (5) members, each appointed by the Mayor, with the advice and consent of the Council of the City of Bethlehem. Each member is to be appointed for a term of five (5) years or until his successor has been appointed and confirmed. There also shall be two (2) alternates, each appointed by the Mayor, with the advice and consent of the Council of the City of Bethlehem, who may act as substitute members in case of absence or unavailability of members of the Board of Appeals. Members of the Board shall receive no compensation for services rendered to the Board.

(b) The Board of Appeals shall consist of five individuals, one from each of the following professions or disciplines.

1. A registered design professional who is a registered architect; or a person involved in a supervisory capacity in building construction with at least ten years experience, five of which shall include responsibility for on-the-job supervision of work in the field.
2. A registered design professional with structural engineering or other civil engineering experience.
3. A registered design professional with mechanical or plumbing engineering experience; or a person involved in a supervisory capacity in mechanical or plumbing contracting with at least ten years experience, five of which shall include responsibility for on-the-job supervision of work in the field.
4. A registered design professional with electrical engineering experience; or a person involved in a supervisory capacity in electrical contracting with at least ten years experience, five of which shall include responsibility for on-the-job supervision of work in the field.
5. A registered design professional with fire protection engineering experience; or a person involved in a supervisory capacity in fire protection contracting with at least ten years experience, five of which shall include responsibility for on-the-job supervision of work in the field.

(c) Alternate members shall be called to serve by the Board Chair to hear appeals during the absence, disqualification or other unavailability of a member. Alternate members shall possess the qualifications required for board membership, and shall be appointed for a term of five (5) years or until a successor has been appointed and confirmed.

(d) Vacancies shall be filled for the un-expired term of any member whose position becomes vacant due to resignation or other reason, and the Mayor may remove any member for cause.

(Ord. 4156. Passed 11/6/2002; Ord. 4204. Passed 7/29/2003)

150.03 PROCEDURE FOR APPEAL

(a) When any person wishes to appeal a decision he shall file an appeal with the Secretary to the Board or with the Office of the City Clerk, who shall immediately forward such an appeal to the Secretary to the Board, within ten days of the official's decision. The appeal shall contain a concise statement of the relevant facts, the decision appealed from, and the basis for the appeal.

(b) An application for appeal may be made when it is claimed that: the true intent of the Codes or rules legally adopted thereunder has been incorrectly interpreted, or the provisions of the Code do not fully apply, or an equally good or better method can be used, or that the decision under appeal was made in an arbitrary and capricious manner.

(c) Hearings shall be open to the public. The Board shall elect a Chairperson and a Secretary and prescribe such rules as may be necessary as to place and conduct of hearings. The Board may in such rules make provision for a filing fee for appeals in the amount of \$100.00, which shall be paid to the City Treasurer.

(d) The Board shall affirm, modify or reverse the decision under appeal by a vote of three (3) members. Failure to secure three (3) votes shall be deemed an affirmance of the decision under appeal. Attendance at the hearing by five (5) members of the Board shall be required to constitute a quorum for a meeting and for action on an appeal.

(e) The Secretary shall transmit copies of the appeal to the fire commissioner, or building enforcement officer, or other applicable City official, and shall set a date for the hearing of the appeal. The hearing shall be held within thirty (30) days after receipt by the Secretary or at a stated regular meeting of the Board of Appeals. Notice of the date and time of the hearing shall be given to all parties involved and shall not be scheduled without concurrence of the fire, or building department, or other applicable City department, as to the particular date of the hearing.

(Ord. 4156. Passed 11/6/2002; Ord. 4204. Passed 7/29/2003)

150.04 DECISION OF BOARD

The Board shall render its decision at a public meeting after the conclusion of the hearing and a written decision thereof is to be issued within seven business days thereafter. The decision shall state the findings of the Board with respect to the material facts and shall reference the provisions of the Codes or laws of the Commonwealth of Pennsylvania, if any are deemed applicable, upon which the decision is based. In reaching its decision, the Board shall consider the expressed intent of any applicable Codes. (Ord. 4156. Passed 11/6/2002)

150.05 JUDICIAL REMEDIES

This Article shall not be construed to limit or deny any judicial remedies to which a party may be entitled by law or equity, but any aggrieved party having an appeal under this Article must first avail himself or herself of the appeal. (Ord. 3281. Passed 8/1/1989)