

Building Code Board of Appeals

Agenda

**January 17, 2019
City Hall,
Conference Maple
749 Main Street
6:30 PM**

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes
 - June 21, 2018
- V. Public Comments on Items Not on the Agenda
- VI. Regular Business
 - 2019 Board members: Reappointments/vacancy
 - Designate agenda posting locations for meetings
 - 2019 open government & ethics pamphlet
- VII. Discussion
 -
 - Approve and sign the revised by-laws
 - Review the suspension and revocation process
 - Review contractor complaint affidavit
- VIII. Update
- IX. Staff Comments
- X. Board Comments
- XI. Date of next meeting
 - Upon request
- XII. Discussion Items for Next Meeting
- XIII. Adjourn

Building Code Board of Appeals

Meeting Minutes

**June 21, 2018
City Hall, Maple Room
749 Main Street
6:30 PM**

Call to Order: Novik called the meeting to order at 6:30 PM.

Roll Call was taken and the following members were present:

Board Members Present: Ed Novik
 Peter Geise
 Matt Berry
 Heidi Tribelhorn
 Steve Knapp
 Tom Ramsey

Board Members Absent:

Staff Members Present: Chad Root, Chief Building Official
 Elizabeth Schettler, Senior Administrative Assistant

Approval of Agenda:

Novik moved and **Knapp** seconded a motion to approve the agenda as prepared by staff. Voice vote. Motion passed 6-0.

Approval of Minutes:

Novik moved and **Knapp** seconded a motion to approve the April 19, 2018 minutes as prepared by staff. Voice vote. Motion passed 6-0.

Public Comments on Items not on the Agenda:

None heard.

Regular Business:

None heard.

Discussion Items:

2018 Adoption of IBC, IRC, IPMC, IPC, IMC, IFGC, IEBC, IECC, IFC

Root does a quick overview and explanation of adopting the above 2018 codes and amendments.

Root explains the appendixes the City is adopting and reasoning behind it. Within the IRC, the appendixes we are proposing to adopt are A, C, D, F, H, J, M, P, and T. In the IBC, the appendixes are C, F, I, J, K, and N.

He mentions that swimming pool and fencing codes are no longer separate codes but are now included in the 2018 IRC and IBC. Other than the IRC, IBC, and IFC, the rest of the code books have very few amendments.

Ramsey asks for clarification with Root that all decks need to submit engineered plans. Root confirms this and explains that most plan reviews submitted for decks are not drawn clearly and often staff has to help re-design the plans in order to make sure it meets the minimum code requirements. This in return becomes much too time consuming for staff.

Root explains that in the IRC, work can be exempt from getting a permit as long as the work is done by a homeowner and the valuation of the job does not exceed \$500.00. With our new adoption of the codes, we are increasing the valuation amount to \$2,500.00. Root confirms that this exemption would not include any structural or electrical work. We are also increasing our Temporary Certificate of Occupancy fee to \$600.00 in order to deter companies from wanting a TCO than a CO. Once a CO is issued, a portion of the TCO fee will be refunded back to the company. The board recommended moving forward with the changes in the energy portion and the amendments going into effect for the IRC and IBC.

Adoption of 1997 Abatement of Dangerous Building Code

This adoption gives the City permission to claim a building is dangerous or unsafe and is no longer allowed to be an occupied space. Root explains to the board the benefits of adopting this code.

Revoking a Contractor's License

Root explains to the board that he has been working with the City Attorney in creating the process and procedure of revoking a contractor license. The City Attorney is reviewing staff's documents and will provide feedback on how to proceed with adopting the process. Root explains that the process of revoking a license would begin with the chief building official receiving the complaint. Then if the complaint held merit, the building official would decide whether or not the board would need to be involved in revoking the license or not.

Staff Comments:

None heard.

Discussion Items for Next Meeting:

- Procedure of Revoking a Contractor License

Adjourn:

Novik moved and **Knapp** seconded a motion to adjourn the meeting. Motion passed unanimously by voice vote. The meeting was adjourned at 8:04 PM.

MEMORANDUM

City Postings

State law requires that each year every municipal board or commission establish the location(s) where the notice of their public meetings will be posted. It is required the location be established at that body's first regular meeting of the year.

The City's Home Rule Charter requires that notice of City Council meetings be posted in four locations. The City Attorney and City Manager's office recommend that other boards and commissions follow the same public notice posting practice.

The 2019 official locations for posting of Building Code Board of Appeals agendas are as follows:

- **The Lobby of City Hall, 749 Main Street**
 - Senior Administrative Assistant posts the agenda in City Hall Foyer
- **The Louisville Public Library Bulletin Board, 951 Spruce Street**
 - Senior Administrative Assistant emails agendaposting@louisvilleco.gov and an individual at that location posts the agenda
- **The Louisville Recreation Center, 900 West Via Appia**
 - Senior Administrative Assistant emails agendaposting@louisvilleco.gov and an individual at that location posts the agenda
- **The Police / Municipal Court building, 992 Via Appia**
 - Senior Administrative Assistant emails agendaposting@louisvilleco.gov and an individual at that location posts the agenda
- **The City of Louisville website, www.LouisvilleCO.gov**
 - Senior Administrative Assistant emails Meredyth Muth, the City Clerk, and she posts the agenda on the website



City of Louisville

Open Government & Ethics Pamphlet

2019

City Clerk's Office
749 Main Street
Louisville CO 80027

www.LouisvilleCO.gov
303.335.4536



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Participation in Government

The City of Louisville encourages citizen involvement and participation in its public policy process. There are many opportunities for citizens to be informed about and participate in City activities and decisions. All meetings of City Council, as well as meetings of appointed Boards and Commissions, are open to the public and include an opportunity for public comments on items not on the agenda. No action or substantive discussion on an item may take place unless that item has been specifically listed as an agenda item for a regular or special meeting. Some opportunities for you to participate include:

Reading and inquiring about City Council activities and agenda items, and attending and speaking on topics of interest at public meetings

City Council Meetings:

- Regular meetings are generally held on the first and third Tuesdays of each month at 7:00 PM in the City Council Chambers, located on the second floor of City Hall, 749 Main Street;
- Study sessions are generally held on the second and fourth Tuesdays of each month at 7:00 PM in the Library Meeting Room, located on the first floor of the Library, 951 Spruce Street;
- Regular meetings are broadcast live on Comcast Cable Channel 8 and copies of the meeting broadcasts are available on DVD in the City Manager's Office beginning the morning following the meeting;
- Regular meetings are broadcast live and archived for viewing on the City's website at www.LouisvilleCO.gov.
- Special meetings may be held occasionally on specific topics. Agendas are posted a minimum of 48 hours prior to the meeting.

Meeting agendas for all City Council meetings, other than special meetings, are posted a minimum of 72 hours prior to the meeting at the following locations:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street
- City website at www.LouisvilleCO.gov

Meeting packets with all agenda-related materials are available 72 hours prior to each meeting and may be found at these locations:

- Louisville Public Library Reference Area, 951 Spruce Street,
- City Clerk's Office, City Hall, 749 Main Street,
- City website at www.LouisvilleCO.gov

You may receive eNotifications of City Council news as well as meeting agendas and summaries of City Council actions. Visit the City's website (www.LouisvilleCO.gov) and look for the eNotification link to register.

After they are approved by the City Council, meeting minutes of all regular and special meetings are available in the City Clerk's office and on the City's website (www.LouisvilleCO.gov).

Information about City activities and projects, as well as City Council decisions, is included in the *Community Update* newsletter, mailed to all City residents and businesses. Information is also often included in the monthly utility bills mailed to City residents.

Communicating Directly with the Mayor and City Council Members

Contact information for the Mayor and City Council members is available at www.LouisvilleCO.gov, as well as at City Hall, the Louisville Public Library, and the Recreation/Senior Center. You may email the Mayor and City Council as a group at CityCouncil@LouisvilleCO.gov.

Mayor's Town Meetings and City Council Ward Meetings are scheduled periodically. These are informal meetings at which all residents, points of view, and issues are welcome. These meetings are advertised at City facilities and on the City's website (www.LouisvilleCO.gov).

Mayor or City Council Elections

City Council members are elected from three Wards within the City and serve staggered four-year terms. There are two Council representatives from each ward. The mayor is elected at-large and serves a four-year term. City Council elections are held in November of odd-numbered years. For information about City elections, including running for City Council, please contact the City Clerk's Office, first floor City Hall, 749 Main Street, or call 303.335.4571.

Serving as an Appointed Member on a City Board or Commission

The City Council makes Board and Commission appointments annually. Some of the City's Boards and Commissions are advisory, others have some decision-making powers. The City Council refers questions and issues to these appointed officials for input and advice. (Please note the Youth Advisory Board has a separate appointment process.) The City's Boards and Commissions are:

- Board of Adjustment
- Building Code Board of Appeals
- Cultural Council
- Historic Preservation Commission
- Historical Commission
- Housing Authority
- Library Board of Trustees
- Local Licensing Authority

- Open Space Advisory Board
- Parks & Public Landscaping Advisory Board
- Planning Commission
- Recreation Advisory Board
- Revitalization Commission
- Sustainability Advisory Board
- Youth Advisory Board

Information about boards, as well as meeting agendas and schedules for each board, is available on the City’s web-site (www.LouisvilleCO.gov).

Agendas for all Board and Commission meetings are posted a minimum of 72 hours prior to each meeting and are posted at these locations:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street
- City web site at www.LouisvilleCO.gov

Copies of complete meeting packets containing all agenda-related materials are available at least 72 hours prior to each meeting and may be found at the following locations:

- Louisville Public Library Reference Area, 951 Spruce Street,
- City Clerk’s Office, City Hall, 749 Main Street
- City web site at www.LouisvilleCO.gov

Planning Commission

The Planning Commission evaluates land use proposals against zoning laws and holds public hearings as outlined in City codes. Following a public hearing, the Commission recommends, through a resolution, that the City Council accept or reject a proposal.

- Regular Planning Commission meetings are held at 6:30 PM on the second Thursday of each month. Overflow meetings are scheduled for 6:30 PM on the 4th Thursday of the month as needed, and occasionally Study Sessions are held.
- Regular meetings are broadcast live on Comcast Channel 8 and archived for viewing on the City’s web-site (www.LouisvilleCO.gov).

Open Government Training

All City Council members and members of a permanent Board or Commission are required to participate in at least one City-sponsored open government-related seminar, workshop, or other training program at least once every two years.

Open Meetings

The City follows the Colorado Open Meetings Law (“Sunshine Law”) as well as additional open meet-

ings requirements found in the City’s Home Rule Charter. These rules and practices apply to the City Council and appointed Boards and Commissions (referred to as a “public body” for ease of reference). Important open meetings rules and practices include the following:

Regular Meetings

All meetings of three or more members of a public body (or a quorum, whichever is fewer) are open to the public.

All meetings of public bodies must be held in public buildings and public facilities accessible to all members of the public.

All meetings must be preceded by proper notice. Agendas and agenda-related materials are posted at least 72 hours in advance of the meeting at the following locations:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street
- On the City web site at www.LouisvilleCO.gov

Study Sessions

Study sessions are also open to the public. However, study sessions have a limited purpose:

- Study sessions are to obtain information and discuss matters in a less formal atmosphere;
- No preliminary or final decision or action may be made or taken at any study session; further, full debate and deliberation of a matter is to be reserved for formal meetings; If a person believes in good faith that a study session is proceeding contrary to these limitations, he or she may submit a written objection. The presiding officer will then review the objection and determine how the study session should proceed.
- Like formal meetings, a written summary of each study session is prepared and is available on the City’s website.

Executive Sessions

The City Charter also sets out specific procedures and limitations on the use of executive sessions. These rules, found in Article 5 of the Charter, are intended to further the City policy that the activities of City government be conducted in public to the greatest extent feasible, in order to assure public participation and enhance public accountability. The City’s rules regarding executive sessions include the following:

Timing and Procedures

The City Council and City Boards and Commissions may hold an executive session only at a regular or special meeting.

No formal action of any type, and no informal or “straw” vote, may occur at any executive session. Rather, formal

actions, such as the adoption of a proposed policy, position, rule or other action, may only occur in open session.

Prior to holding an executive session, there must be a public announcement of the request and the legal authority for convening in closed session. There must be a detailed and specific statement as to the topics to be discussed and the reasons for requesting the session.

The request must be approved by a supermajority (two-thirds of the full Council, Board, or Commission). Prior to voting on the request, the clerk reads a statement of the rules pertaining to executive sessions. Once in executive session, the limitations on the session must be discussed and the propriety of the session confirmed. If there are objections and/or concerns over the propriety of the session, those are to be resolved in open session.

Once the session is over, an announcement is made of any procedures that will follow from the session.

Executive sessions are recorded, with access to those tapes limited as provided by state law. Those state laws allow a judge to review the propriety of a session if in a court filing it is shown that there is a reasonable belief that the executive session went beyond its permitted scope. Executive session records are not available outside of a court proceeding.

Authorized Topics

For City Council, an executive session may be held only for discussion of the following topics:

- Matters where the information being discussed is required to be kept confidential by federal or state law;
- Certain personnel matters relating to employees directly appointed by the Council, and other personnel matters only upon request of the City Manager or Mayor for informational purposes only;
- Consideration of water rights and real property acquisitions and dispositions, but only as to appraisals and other value estimates and strategy for the acquisition or disposition; and
- Consultation with an attorney representing the City with respect to pending litigation. This includes cases that are actually filed as well as situations where the person requesting the executive session believes in good faith that a lawsuit may result, and allows for discussion of settlement strategies.

The City's Boards and Commissions may only hold an executive session for consultation with its attorney regarding pending litigation.

Ethics

Ethics are the foundation of good government. Louisville has adopted its own Code of Ethics, which is found in the City Charter and which applies to elected officials, public body members, and employees. The Louisville Code of Ethics applies in addition to any higher standards

in state law. Louisville's position on ethics is perhaps best summarized in the following statement taken from the City Charter:

Those entrusted with positions in the City government must commit to adhering to the letter and spirit of the Code of Ethics. Only when the people are confident that those in positions of public responsibility are committed to high levels of ethical and moral conduct, will they have faith that their government is acting for the good of the public. This faith in the motives of officers, public body members, and employees is critical for a harmonious and trusting relationship between the City government and the people it serves.

The City's Code of Ethics (Sections 5-6 through 5-17 of the Charter) is summarized in the following paragraphs. While the focus is to provide a general overview of the rules, it is important to note that all persons subject to the Code of Ethics must strive to follow both the letter and the spirit of the Code, so as to avoid not only actual violations, but public perceptions of violations. Indeed, perceptions of violations can have the same negative impact on public trust as actual violations.

Conflicts of Interest

One of the most common ethical rules visited in the local government arena is the "conflict of interest rule." While some technical aspects of the rule are discussed below, the general rule under the Code of Ethics is that if a Council, Board, or Commission member has an "interest" that will be affected by his or her "official action," then there is a conflict of interest and the member must:

- Disclose the conflict, on the record and with particularity;
- Not participate in the discussion;
- Leave the room; and
- Not attempt to influence others.

An "interest" is a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss. However, an "interest" does not include any matter conferring similar benefits on all property or persons similarly situated. (Therefore, a City Council member is not prohibited from voting on a sales tax increase or decrease if the member's only interest is that he or she, like other residents, will be subject to the higher or lower tax.) Additionally, an "interest" does not include a stock interest of less than one percent of the company's outstanding shares.

The Code of Ethics extends the concept of prohibited interest to persons or entities with whom the member is associated. In particular, an interest of the following persons and entities is also an interest of the member: relatives (including persons related by blood or marriage to certain

degrees, and others); a business in which the member is an officer, director, employee, partner, principal, member, or owner; and a business in which member owns more than one percent of outstanding shares.

The concept of an interest in a business applies to profit and nonprofit corporations, and applies in situations in which the official action would affect a business competitor. Additionally, an interest is deemed to continue for one year after the interest has ceased. Finally, "official action" for purposes of the conflict of interest rule, includes not only legislative actions, but also administrative actions and "quasi-judicial" proceedings where the entity is acting like a judge in applying rules to the specific rights of individuals (such as a variance request or liquor license). Thus, the conflict rules apply essentially to all types of actions a member may take.

Contracts

In addition to its purchasing policies and other rules intended to secure contracts that are in the best interest of the City, the Code of Ethics prohibits various actions regarding contracts. For example, no public body member who has decision-making authority or influence over a City contract can have an interest in the contract, unless the member has complied with the disclosure and recusal rules. Further, members are not to appear before the City on behalf of other entities that hold a City contract, nor are they to solicit or accept employment from a contracting entity if it is related to the member's action on a contract with that entity.

Gifts and Nepotism

The Code of Ethics, as well as state law, regulates the receipt of gifts. City officials and employees may not solicit or accept a present or future gift, favor, discount, service or other thing of value from a party to a City contract, or from a person seeking to influence an official action. There is an exception for the "occasional nonpecuniary gift" of \$15 or less, but this exception does not apply if the gift, no matter how small, may be associated with the official's or employee's official action, whether concerning a contract or some other matter. The gift ban also extends to independent contractors who may exercise official actions on behalf of the City.

The Code of Ethics also prohibits common forms of nepotism. For example, no officer, public body member, or employee shall be responsible for employment matters concerning a relative. Nor can he or she influence compensation paid to a relative, and a relative of a current officer, public body member or employee cannot be hired unless certain personnel rules are followed.

Other Ethics Rules of Interest

Like state law, Louisville's Code of Ethics prohibits the use of non-public information for personal or private gain. It also prohibits acts of advantage or favoritism and, in that regard, prohibits special considerations, use of employee time for personal or private reasons, and use of City vehicles or equipment, except in same manner as available to any other person (or in manner that will substantially benefit City). The City also has a "revolving door" rule that prohibits elected officials from becoming City employees either during their time in office or for two years after leaving office. These and other rules of conduct are found in Section 5-9 of the Code of Ethics.

Disclosure, Enforcement, and Advisory Opinions

The Code of Ethics requires that those holding or running for City Council file a financial disclosure statement with the City Clerk. The statement must include, among other information, the person's employer and occupation, sources of income, and a list of business and property holdings.

The Code of Ethics provides fair and certain procedures for its enforcement. Complaints of violations may be filed with the City prosecutor; the complaint must be a detailed written and verified statement. If the complaint is against an elected or appointed official, it is forwarded to an independent judge who appoints a special, independent prosecutor for purposes of investigation and appropriate action. If against an employee, the City prosecutor will investigate the complaint and take appropriate action. In all cases, the person who is subject to the complaint is given the opportunity to provide information concerning the complaint.

Finally, the Code allows persons who are subject to the Code to request an advisory opinion if they are uncertain as to applicability of the Code to a particular situation, or as to the definition of terms used in the Code. Such requests are handled by an advisory judge, selected from a panel of independent, disinterested judges who have agreed to provide their services. This device allows persons who are subject to the Code to resolve uncertainty before acting, so that a proper course of conduct may be identified. Any person who requests and acts in accordance with an advisory opinion issued by an advisory judge is not subject to City penalty, unless material facts were omitted or misstated in the request. Advisory opinions are posted for public inspection; the advisory judge may order a delay in posting if the judge determines the delay is in the City's best interest.

Citizens are encouraged to contact the City Manager's Office with any questions about the City's Code of Ethics. A copy of the Code is available at the City's website (www.LouisvilleCO.gov) and also from the Offices of the City Manager and City Clerk.

Other Laws on Citizen Participation in Government

Preceding sections of this pamphlet describe Louisville's own practices intended to further citizen participation in government. Those practices are generally intended to further dissemination of information and participation in the governing process. Some other laws of interest regarding citizen participation include:

Initiative and Referendum

The right to petition for municipal legislation is reserved to the citizens by the Colorado Constitution and the City Charter. An initiative is a petition for legislation brought directly by the citizens; a referendum is a petition brought by the citizens to refer to the voters a piece of legislation that has been approved by the City Council. In addition to these two petitioning procedures, the City Council may refer matters directly to the voters in the absence of any petition. Initiative and referendum petitions must concern municipal legislation—as opposed to administrative or other non-legislative matters. By law the City Clerk is the official responsible for many of the activities related to a petition process, such as approval of the petition forms, review of the signed petitions, and consideration of protests and other matters. There are minimum signature requirements for petitions to be moved to the ballot; in Louisville, an initiative petition must be signed by at least five percent of the total number of registered electors. A referendum petition must be signed by at least two and one-half percent of the registered electors.

Public Hearings

In addition to the opportunity afforded at each regular City Council meeting to comment on items not on the agenda, most City Council actions provide opportunity for public comment through a public hearing process. For example, the City Charter provides that a public hearing shall be held on every ordinance before its adoption. This includes opportunities for public comment prior to initial City Council discussion of the ordinance, as well as after Council's initial discussion but before action. Many actions of the City are required to be taken by ordinance, and thus this device allows for citizen public hearing comments on matters ranging from zoning ordinances to ordinances establishing offenses that are subject to enforcement through the municipal court.

Additionally, federal, state, and/or local law requires a public hearing on a number of matters irrespective of whether an ordinance is involved. For example, a public hearing is held on the City budget, the City Comprehensive Plan and similar plans, and a variety of site-specific or person-specific activities, such as annexations of land into the city, rezonings, special use permits, variances, and new

liquor licenses. Anyone may provide comments during these hearings.

Public Records

Access to public records is an important aspect of citizen participation in government. Louisville follows the Colorado Open Records Act (CORA) and the additional public records provisions in the City Charter. In particular, the Charter promotes the liberal construction of public records law, so as to promote the prompt disclosure of City records to citizens at no cost or no greater cost than the actual costs to the City.

The City Clerk is the custodian of the City's public records, except for financial, personnel, and police records which are handled, respectively, by the Finance, Human Resources, and Police Departments. The City maintains a public policy on access to public records, which include a records request form, a statement of fees, and other guidelines. No fee is charged for the inspection of records. No fee is charged for locating or making records available for copying, except in cases of voluminous requests or dated records, or when the time spent in locating records exceeds two hours. No fees are charged for the first 25 copies requested or for electronic records.

Many records, particularly those related to agenda items for City Council and current Board and Commission meetings, are available directly on the City's website (www.LouisvilleCO.gov). In addition to posting agenda-related material, the City maintains communication files for the City Council and Planning Commission. These are available for public inspection at the City Clerk's Office, 749 Main Street.

CORA lists the categories of public records that are not generally open to public inspection. These include, for example, certain personnel records and information, financial and other information about users of city facilities, privileged information, medical records, letters of reference, and other items listed in detail in CORA. When public records are not made available, the custodian will specifically advise the requestor of the reason.

Citizens are encouraged to review the City's website (www.LouisvilleCo.gov) for information, and to contact the City with any questions regarding City records.

Public Involvement Policy

Public participation is an essential element of the City's representative form of government. To promote effective public participation City officials, advisory board members, staff and participants should all observe the following guiding principles, roles and responsibilities:

Guiding Principles for Public Involvement

Inclusive not Exclusive - Everyone's participation is

welcome. Anyone with a known interest in the issue will be identified, invited and encouraged to be involved early in the process.

Voluntary Participation - The process will seek the support of those participants willing to invest the time necessary to make it work.

Purpose Driven - The process will be clearly linked to when and how decisions are made. These links will be communicated to participants.

Time, Financial and Legal Constraints - The process will operate within an appropriate time frame and budget and observe existing legal and regulatory requirements.

Communication - The process and its progress will be communicated to participants and the community at-large using appropriate methods and technologies.

Adaptability - The process will be adaptable so that the level of public involvement is reflective of the magnitude of the issue and the needs of the participants.

Access to Information - The process will provide participants with timely access to all relevant information in an understandable and user-friendly way. Education and training requirements will be considered.

Access to Decision Making - The process will give participants the opportunity to influence decision making.

Respect for Diverse Interests - The process will foster respect for the diverse values, interests and knowledge of those involved.

Accountability - The process will reflect that participants are accountable to both their constituents and to the success of the process.

Evaluation - The success and results of the process will be measured and evaluated.

Roles and Responsibilities - City Council

City Council is ultimately responsible to all the citizens of Louisville and must weigh each of its decisions accordingly. Councilors are responsible to their local constituents under the ward system; however they must carefully consider the concerns expressed by all parties. Council must ultimately meet the needs of the entire community—including current and future generations—and act in the best interests of the City as a whole.

During its review and decision-making process, Council has an obligation to recognize the efforts and activities that have preceded its deliberations. Council should have regard for the public involvement processes that have been completed in support or opposition of projects.

Roles and Responsibilities - City Staff and Advisory Boards

The City should be designed and run to meet the needs and priorities of its citizens. Staff and advisory boards must ensure that the Guiding Principles direct their work. In addition to the responsibilities established by the Guiding

Principles, staff and advisory boards are responsible for:

- ensuring that decisions and recommendations reflect the needs and desires of the community as a whole;
- pursuing public involvement with a positive spirit because it helps clarify those needs and desires and also adds value to projects;
- fostering long-term relationships based on respect and trust in all public involvement activities;
- encouraging positive working partnerships;
- ensuring that no participant or group is marginalized or ignored;
- drawing out the silent majority, the voiceless and the disempowered; and being familiar with a variety of public involvement techniques and the strengths and weaknesses of various approaches.

All Participants

The public is also accountable for the public involvement process and for the results it produces. All parties (including Council, advisory boards, staff, proponents, opponents and the public) are responsible for:

- working within the process in a cooperative and civil manner;
- focusing on real issues and not on furthering personal agendas;
- balancing personal concerns with the needs of the community as a whole;
- having realistic expectations;
- participating openly, honestly and constructively, offering ideas, suggestions and alternatives;
- listening carefully and actively considering everyone's perspectives;
- identifying their concerns and issues early in the process;
- providing their names and contact information if they want direct feedback;
- remembering that no single voice is more important than all others, and that there are diverse opinions to be considered;
- making every effort to work within the project schedule and if this is not possible, discussing this with the proponent without delay;
- recognizing that process schedules may be constrained by external factors such as limited funding, broader project schedules or legislative requirements;
- accepting some responsibility for keeping themselves aware of current issues, making others aware of project activities and soliciting their involvement and input; and
- considering that the quality of the outcome and how that outcome is achieved are both important.

Updated December 2015

This pamphlet is prepared pursuant to the Home Rule Charter of the City of Louisville.

This is a compilation of Articles 4 and 5 of the Charter of the City of Louisville and is available at all times in the City Clerk's Office, 749 Main Street, Louisville, Colorado, and on the City's web site at www.LouisvilleCO.gov.

This pamphlet is also provided to every member of a public body (board or commission) at that body's first meeting each year.

**AMENDED AND RESTATED BYLAWS OF
BUILDING CODE BOARD OF APPEALS**

**ARTICLE I
The Board**

Section 1. Introduction. These Amended and Restated Bylaws (“Bylaws”) of the Building Code Board of Appeals are adopted pursuant to the authority stated in Chapter 15.56 of the Louisville Municipal Code. These Bylaws replace any previous Bylaws or Rules of Procedure for the Building Code Board of Appeal.

Section 2. Office. The office of the Board shall be considered the Louisville City Hall, 749 Main Street, Louisville, CO 80027, or such other place in the City of Louisville, Colorado as the City Manager may designate from time to time.

Section 3. Purpose and Duties.

AQ asi-Judicial. The Board shall have the powers and functions specified in the ordinances of the City and, except as otherwise provided by ordinance, applicable state statutes.

B Duties. The role of the Board will include, but not be limited to, advising the City Council on such matters as:

- (i) Hearing and deciding appeals of orders, decisions, or determinations made by building officials relative to the application of the building code;
- (ii) Hearing and deciding license or registration suspensions or revocations relative to violations of the building code, refusal to obey orders issued under the code, or neglecting to pay any fee assessed under the building code; and
- (iii) Advising City Council on matters related to the building code as requested.

ARTICLE II Members

Section 1. Number of Members. The Board shall consist of five (5) regular members who are qualified by experience and training to pass on matters pertaining to building construction whom City Council shall appoint.

Section 2. Associate Member.

A. In addition to the members of the Board, the City Council may appoint one (1) associate member for a three-year term. In the event that any regular member is temporarily unable to act, the member's place may be taken during such temporary disability by the associate member who during such disability shall enjoy full voting privileges.

B. Any matter brought before the Board may be discussed by all the regular and associate members present.

C. At no time shall there be more than five (5) voting members on the Board.

Section 3. Residency Requirement. Members shall be residents of the City at the time of their appointment and at all times while serving on the Board (Louisville Home Rule Charter Section 10-2c).

Section 4. City Employees. Members may not be employees of the City of Louisville at any time during their appointment to the Board.

Section 5. Term of Members. Each member shall be appointed for a three-year term. A member's term of office shall commence January 1 and shall expire December 31. Notwithstanding the foregoing, the City Council shall have the authority at the time of appointment to any vacancy to reduce the length of a member's term as necessary to avoid more than two thirds of members' terms expiring at the same time.

Section 6. Compensation. Members shall serve without compensation. Expenses actually incurred in the performance of the duties of office may be paid only if the expense and amount thereof are approved and authorized in advance by a writing signed by the City Manager. (Louisville Home Rule Charter Section 10-2e).

Section 7. City Liaison. The City Manager shall appoint a City staff member to act as liaison to the Board. Such liaison may advise the Board, make recommendations, and bring items for discussion. Such liaison is not a member of the Board, does not vote on matters before the Board, and may not be counted as a part of a quorum.

ARTICLE III Officers and Personnel

Section 1. Officers. The officers of the Board shall be a Chair, a Vice-Chair, and a Secretary.

Section 2. President. The Chair shall preside at all meetings of the Board.

Section 3. Vice President. The Vice-Chair shall perform the duties of the Chair in the Chair's absence or inability to act. In the event of the absence or inability to act of both the Chair and Vice-Chair, the remaining members shall select some other member of the Board to temporarily perform the duties of the Chair.

Section 4. Secretary. The Secretary, who may be a member or an employee of the City shall take meeting minutes and attest to all documents authorized to be executed by the Board. In the event of the absence of the Secretary, the Chair shall designate, in writing or verbally at a meeting of the Board, some other member of the Board or employee of the City to perform duties of the Secretary.

Section 5. Additional Duties. The officers of the Board shall perform such duties and functions as may from time to time be required or authorized by the Board or these Bylaws.

Section 6. Election of Officers. The officers of the Board shall be elected annually by the Board at its first meeting of each calendar year and shall assume their duties upon election. Officers shall hold their offices for one year or until their successors are selected and qualified. If the office of the Chair, Vice-Chair or Secretary is vacant, the Board shall select a successor from its membership to serve for the unexpired term of said office.

Section 7. Vacancies. At the end of any member's term the City Council shall advertise for interested applicants and interview persons regarding such vacancy. Appointments are made annually in December. Members may reapply for vacant positions.

Section 8. Mid-term Vacancies. If a Board member resigns his/her post mid-term, the City Council may invite applications and interview persons regarding such vacancy. The City Council may appoint an applicant to fill the vacancy for the remainder of the year. Such an appointee shall be required to then reapply for the position at the end of the year during the annual application process.

Section 9. Removal. A member may be removed during his/her term of office for

cause by the City Council as defined in the Louisville Home Rule Charter and Resolution No. 16, Series 2009 and Resolution No. 59, Series 2016. Cause shall include but not be limited to:

- A. Violation of city or state ethics laws;
- B. Conviction during the term of office of a felony or of any other crime involving moral turpitude;
- C. Absence from more than 25 percent of the regular meetings in any 12-month period;
- D. Neglect of duty or malfeasance in office;
- E. Knowing violation of any statute, ordinance, resolution, rule, policy or bylaw applicable to the Board;
- F. Physical or mental disability rendering the board or commission member unable to perform his or her duties;
- G. Knowing disclosure of confidential information, which is defined to mean information which is not available to the general public under applicable laws, ordinances and regulations, and which is obtained by reason of the board or commission member's position with the City;
- H. Failure to maintain the qualifications of a board or commission member for the board or commission on which the member serves;
- I. Behaving in a harassing, hostile, threatening or otherwise inappropriate manner, or unreasonably disrupting or interfering with the conduct of any meeting of a board or commission; or
- J. Other grounds constituting cause as established by law.

ARTICLE IV Meetings

Section 1. Regular Meetings. The Board regular meeting time and location shall be determined at the first meeting of each calendar year. In the event any regular meeting falls on a legal holiday observed by the City of Louisville, the Board shall designate a new meeting time a minimum of one month prior to the holiday meeting date.

Section 2. Meeting Notice. The agenda for any meeting shall be posted a minimum of seventy-two hours in advance of the meeting in the following locations and will serve as notice of the meeting:

- A. City Hall, 749 Main Street
- B. Library, 951 Spruce Street

- C. Recreation Center, 900 West Via Appia
- D. Police Department/Municipal Court Building, 992 West Via Appia
- E. City Web Site at www.LouisvilleCo.gov

Section 3. Location of Meeting. Pursuant to Section 4-5(d) of the Louisville Home Rule Charter, all meetings of the Board shall occur in public buildings and public facilities accessible to all members of the public.

Section 4. Special Meetings and Business at Special Meetings.

A. Except for an emergency special meeting governed by Subsection B, each special meeting of the Board shall be called by an officer on the request of any three members of the Board, and shall be held on at least forty-eight hours written notice. Notice of such special meeting shall be posted in the same manner as prescribed in Article IV, Section 2.

B. An emergency special meeting shall be called by the Secretary on the request of the Chair or any three members of the Board, and shall be held on at least twenty-four hours written notice to each member of the Board. Notice shall be posted at least twenty-four hours in advance of such emergency special meeting in the locations prescribed in Article IV, Section 2. An emergency special meeting shall not be called unless:

Each member requesting the meeting has determined that the meeting is urgently necessary in order to take action on an unforeseen matter requiring immediate action; and

The basis for the determination described in Paragraph (i) is stated in the notice of the meeting.

C. All reasonable efforts shall be made to notify members. The notice need not be served if the member has waived the notice in writing.

D. The Board shall not take action on any item of business at any special meeting unless:

- (i.) The item to be acted on has been stated in the notice of the meeting;
or

The item to be acted on is reasonably related to the item which was stated in the notice of the meeting.

Section 5. Quorum. The powers of the Board shall be vested in the members thereof in office from time to time. A majority of the members shall constitute a quorum for conducting business, but in the absence of a quorum, a lesser number may adjourn

any meeting to a later time and date until a quorum is present. When a quorum is in attendance, action may be taken by the Board upon an affirmative vote of the majority of the members present, except in cases where a greater number is required by the Louisville Home Rule Charter or ordinances, or state laws applicable to the City.

Section 6. Open Meetings. In addition to the requirements of these Bylaws, the Board shall comply with all applicable provisions of the open meetings laws of the State of Colorado and the Louisville Home Rule Charter.

Section 7. Open Government.

A. Notice of meetings of the Board shall be provided to the public in accordance with the requirements of these Bylaws and other applicable provisions of the open meetings laws of the State of Colorado and the Louisville Home Rule Charter.

B. The agenda for any meeting of the Board shall contain an itemized list of all subjects on which substantive discussions are reasonably expected or which may be the subject of formal action.

C. The Board shall not engage in substantive discussions relating to, or take formal action on, any subject when that subject was not listed in the agenda for that meeting and is not substantially related to any subject listed in the agenda.

D. For purposes of Subsection C of this Section, a subject is not substantially related to a subject listed in the agenda when a person reading the agenda before the meeting would not have reasonably expected that the subject would be substantively discussed or formally acted upon at the meeting.

E. For purposes of this Section, “substantive discussions” means debate, deliberation or other discussion about the merits, benefits, advantages or disadvantages of any proposed or possible resolution of any issue that will be or may be the subject of formal action by the Board.

F. Each member of the Board shall participate in at least one City-sponsored open government-related seminar, workshop or other program at least once every two years. Such program shall conform to the requirements of Section 4-16(a) of the Louisville Home Rule Charter.

Section 8. Agendas and Meeting Materials.

A. To the extent possible, the agenda and all documents and materials requiring action by the Board at any meeting shall be provided each Board member seventy-two hours in advance of such meeting.

B. The Board shall make available to the public the agenda and all agenda-related materials. Such information will be available as follows:

- i. City Web Site at www.LouisvilleCo.gov
- ii. City Clerk's Office, City Hall, 749 Main Street
- iii. Library Reference Desk, 951 Spruce Street

C. For purposes of this Section, "agenda-related materials" means the agenda, all reports, correspondence and any other documents forwarded to the Board that provide background information or recommendations concerning the subject matter of any agenda item, excluding any documents or records which may or must be withheld from disclosure pursuant to state or federal statutes or constitutional provisions, or common law.

D. Any document that is submitted to the Board during a meeting shall be immediately made available to the public either by making copies available to the public at the meeting or by displaying the document at the meeting so that the public can view the document. No discussion or consideration of such a document by the Board shall occur unless the document has been made available to the public as provided in this Subsection D. The foregoing shall not be construed to require the dissemination, display or disclosure of any document or record which otherwise may or must be withheld from disclosure pursuant to state or federal statutes or constitutional provisions, or common law.

Section 9. Public Records.

A. Public records of the Board shall be open for inspection during normal business hours in accordance with the provisions of the Colorado Open Records Act, and Section 5-5 of the Louisville Home Rule Charter. The Board shall strictly construe exceptions provided under the State statutes authorizing certain public records to be

exempt from disclosure to the public. In the event of conflict among the various provisions of such laws, whichever law provides greater access to Board records and less expense to the person requesting the records shall control disclosure by the (Board).

B. City Staff shall maintain a file of all studies, plans, reports, recommendations and resolutions made by the Board in the exercise of its duties.

ARTICLE V General

Section 1. Committees. The Chair may appoint members of the Board to such committees as deemed necessary to perform any functions for the purpose of advising the Board.

Section 2. Conflict of Interest: Code of Ethics. The members and officers of the Board shall comply with all applicable federal and state laws regarding conflicts of interest. The members, officers and employees of the Board shall also comply with the Code of Ethics set forth as Sections 5-6 through 5-17 of the City of Louisville Home Rule Charter (“Code of Ethics”). For purposes of application of such Code of Ethics only, the Board shall be considered a “public body” and a member of the Board shall be considered a “public body member.”

Section 3. Amendment of Bylaws. The Bylaws of the Board may be amended only upon a majority vote of the members of the Board.

Section 4. Conflict of Law. Where any conflict exists between any provision of these Bylaws and the Louisville Home Rule Charter or City ordinances, such ordinances or statutes shall control over the provisions of these Bylaws and these Bylaws shall be deemed to have been amended to conform to such ordinances and statutes.

ARTICLE VII Appeals

Section 1. Jurisdiction. The Board's jurisdiction shall apply to all building codes, and amendments thereto, as adopted by reference in Title 15 of the Louisville Municipal Code.

Section 2. Appeals.

A. Appeals to the Board may be made by any person, officer, department, board, firm, or corporation aggrieved by a final decision of the Building Official regarding the following matters:

- i. The suitability of alternate methods of construction which the appellant alleges to be the equivalent of that prescribed in the applicable codes in terms of suitability, strength, effectiveness, fire resistiveness, durability, safety, or sanitation;
- ii. The technical application and interpretation of the building codes adopted by reference within Title 15 of the Louisville Municipal Code, including alleged errors in the interpretation of a code, allegations that certain provisions of a code are being imposed which do not apply to the project, and allegations that a wrongful requirement in a building matter that is not specifically addressed in the code is being imposed.

B. The Board shall not have the authority to interpret any administrative provisions of a code, or to waive requirements of any such code, nor shall the Board have the authority to recommend decreasing public safety or fire-resistive standards set forth in any code.

Section 3. Applications for Appeal.

A. Appeals of a final decision of the Building Official to the Board shall be filed with the Secretary of the Board within thirty (30) days after the date of the final order, decision, or determination causing the appeal. Applications for an appeal hearing shall be made on forms designated by the Board, if any, and shall include citation to the code and section under which the appeal is being initiated, a concise statement of the decision being appealed, the reasons for the appeal, the relief sought and copies of all non-testimonial evidence which the appellant intends to rely on at the hearing.

B. Upon the receipt of a complete application for appeal, a hearing shall be scheduled within thirty (30) days after the filing of the complete application, unless the appellant consents to a later date. Notice of the date and time of scheduled hearing shall be given to the appellant. The appellant may request a postponement of a hearing for the purpose of gathering additional information or evidence to support the appellant's case provided the request is made in writing to the Secretary of the Board no later than fifteen (15) days prior to the date of the originally scheduled hearing. An appellant may withdraw an application for appeal at any time before the hearing on the appeal is closed for board deliberation.

C. At least five (5) days prior to a hearing, the Secretary shall provide each Board member for review a copy of the application and any written or graphic material received from the appellant together with a written explanation or staff report from the Building Official so that the Board members may familiarize themselves with the appeal prior to the hearing.

Prior to the hearing on the appeal, the chief building official may review the application for appeal to determine whether a mutually agreeable alternative can be reached between the parties without having to take the matter to the Board, and may resolve the appeal, if appropriate, before it is taken to the Board.

ARTICLE VIII

License Suspension or Revocation

Section 1. Jurisdiction. The Board's jurisdiction shall apply to all building codes, and amendments thereto, as adopted by reference in Title 15 of the Louisville Municipal Code.

Section 2. Authority. Pursuant to the authority stated in Chapters 5.12 and 15.56 of the Louisville Municipal Code, the Board shall have the power to temporarily suspend or permanently revoke a license or registration if the holder thereof, after a hearing, is found to have committed one or more acts prohibited in the building codes, and amendments thereto, as adopted by reference in Title 15 of the Louisville Municipal Code.

Section 3. Pre-hearing process for suspension or revocation.

A. The Building Official may upon his own motion, and shall upon the verified complaint in writing of any person, require any person licensed or registered under this chapter (licensee) to appear before the Board for a hearing upon five days written notice.

- i. **Motion by Written Statement.** If the hearing process is initiated by Building Official motion, the motion shall be in the form of a written statement, signed by the Building Official, including: citation to the code and section under which the suspension or revocation is being initiated; a concise statement of the facts; the recommended administrative action; a description of any health, welfare, or safety concerns that necessitate an expedited process; and copies of all non-testimonial evidence on which the City intends to rely at the hearing.
- ii. **Verified Complaint by Written Statement.** If the hearing process is initiated by complaint, the Building Official shall review the complaint to determine whether there are facts and grounds to require a licensee to appear before the Board.
 - a. A complainant who requests the Board consider suspension or revocation of a license or registration shall submit a signed and sworn affidavit to the Building Official on a form designated by the Board.

- b. If the Building Official determines that there are sufficient facts and grounds to require a licensee to appear before the Board, the Building Official shall verify the complaint in the form of a written statement, signed by the Building Official, including: citation to the code and section under which the suspension or revocation is being initiated; a concise statement of the facts; the recommended administrative action; a description of any health, welfare, or safety concerns that necessitate an expedited process; copies of all non-testimonial evidence on which the City intends to rely at the hearing; and attaching the complaint affidavit.
- c. If the Building Official is unable to determine that there are sufficient facts and grounds to require a licensee to appear before the Board, the complaint may not be verified.
- d. After investigation to determine if there are sufficient or insufficient facts and grounds in a complaint to require a licensee to appear before the Board, the Building Official shall provide the complainant with written notification.

B. The Building Official shall file the signed, written statement to initiate a hearing before the Board with the Secretary of the Board.

C. Upon the receipt of a written statement, signed by the Building Official, a hearing shall be scheduled within thirty (30) days after the filing, but the Board shall consider health, welfare, or safety concerns detailed in the written statement and schedule a hearing as soon as practical, provided proper notice is provided to the licensee.

D. At least five (5) days prior to a hearing, notice of the hearing shall be served to the licensee by providing a copy of the Building Official's written statement that was filed with the Board and the date and time of scheduled hearing. Notice shall be personally served or mailed to the last known address of the person as set forth in the records of the City.

E. At least five (5) days prior to a hearing, the Secretary shall provide each Board member a copy of the a copy of the Building Official's written statement and any documents that were filed with the Board so that the Board members may familiarize themselves with the matter prior to the hearing.

Section 4. Effects of Suspension or Revocation. Upon the suspension or revocation, a license or registration is null and void, along with all privileges associated. During a period of temporary suspension, no licensee shall exercise any privileges of licensure or registration. If the Board orders revocation of a license or registration, the licensee must surrender the license by delivering it to the Permits & Licensing

Department Director. No licensee who has had a license or registration suspended or revoked is entitled to obtain the same or any similar license during the period of suspension or revocation, either in the licensee's own name or as a principal in another business that applies for a license.

ARTICLE IX Public Hearings

Section 1. Recording. A record of any public hearing shall be made by electronic recording device.

Section 2. Notice. Notice of a public hearing shall be given in the manner and according to the procedures set forth in applicable City ordinances.

Section 3. Rules of Evidence.

A. The Board shall not be required to observe formal rules of evidence during hearings, but may consider any matter which the Chair concludes is reasonably reliable and calculated to aid the Board in reaching an accurate determination of the issues involved.

B. Rulings on questions of admissibility will be decided by the Chair unless objected to by a member of the Board, in which case the ruling shall be made by the Board.

C. The meeting agenda and all agenda-related materials constituting the meeting packet for the meeting at which the hearing is held shall be included within the record of the hearing without further necessity for making and admission thereof. All other documents or other materials offered as exhibits shall be marked and identified for the record before offering them to the Chair for admission into the record of the hearing.

Section 4. Appearance. Any party to a hearing may appear before the Board in person or by agent or by attorney.

Section 5. Testimony.

A. All testimony shall be given under oath or affirmation and all witnesses shall identify themselves by name and address.

B. Any party in interest shall be allowed to present evidence and to cross-examine witnesses personally or by counsel.

C. The Chair may limit testimony or questioning that is repetitive, cumulative, argumentative, or not pertinent to the issues, and may set a reasonable time limit on the

duration of the testimony if the Chair determines it to be necessary in light of the number of persons seeking to testify.

Section 6. Board Questions. Members of the Board may ask questions of any witness but shall refrain from entering into any argument or debate with any witness.

Section 7. Applicable Standards. In making its decisions, the Board shall apply the criteria set out in City ordinances and applicable state laws.

Section 8. Burden of Proof.

A. For appeals of a final decision of the Building Official, unless otherwise required by law, the burden of proof is on the appellant to show that the appellant meets the criteria set out in City ordinances and applicable state laws.

B. For temporary suspension or permanent revocation of a license or registration, the City shall have the burden to show, by a preponderance of evidence, that the licensee committed one or more acts prohibited by the building code. The City may be represented by the Building Official or his or her designee.

Section 9. Order of Hearings. The order of the hearing shall be as follows unless revised by the Board by vote at the hearing:

A. Chair opens public hearing, announces the subject matter of the hearing, and described the procedure for conducting the hearing.

B. Determination of compliance with public notice requirements.

C. Board member disclosures, if any, including conflicts of interest, ex parte (outside the hearing) contacts or other matter.

D. Conduct of the appeals hearing, to include, without limitation:

- i. Presentation by the appellant;
- ii. Presentation by City staff;
- iii. Testimony by persons in attendance;
- iv. Board questions of appellant or staff; and
- v. Closing statements.

E. Conduct of the suspension or revocation hearing, to include, without limitation:

- i. Presentation by City staff;
 - ii. Presentation by the licensee;
 - iii. Testimony by persons in attendance;
 - iv. Board questions of licensee or staff; and
 - v. Closing statements.
- F. Close the public hearing.
- G. Board comment and decision on merits or to take the matter under advisement.

Section 10. Continuance. Whenever, in the opinion of the Board, a hearing cannot be completed at a reasonable hour on the original hearing date, or for other good cause as determined by the Board, the Board may continue the hearing to a later date. The Board Secretary may also grant a written request by the appellant for a continuance prior to the hearing date provided that there is good cause.

Section 11. Reopening Public Hearing. No further evidence shall be presented or considered by the Board after the hearing is closed, unless the hearing is reopened after all parties are notified and given an opportunity to be heard. Hearings will be reopened only when the Board deems it necessary to provide justice or fundamental fairness or for other good cause.

Section 12. Decisions of the (Board).

A. Following the conclusion of a hearing, the Board may render its decision immediately or take the matter under advisement for further deliberations. The Board may, following the conclusion of a hearing, direct that City staff prepare a draft set of findings, conclusions and order for Board consideration at a subsequent meeting.

B. Each decision of the Board shall be sent, by certified mail, to the appellant or licensee at the address shown in the record. A copy of the decision shall also be provided to any other person requesting a copy.

C. The decision shall be issued no later than 30 days after the conclusion of the hearing.

D. If the Board administratively orders the suspension or revocation of a license or registration, the Board shall file, or shall direct City staff to file, a copy of the decision with the City Clerk as well as provide notice of the decision by electronic mail to the Permits & Licensing and Planning & Building Safety departments.

Section 13. Voting. Every decision of the Board on any case shall be by motion. All motions require a second. Voting may be by voice, by show of hands, by roll call or other means as the Chair deems appropriate. A record of the vote, and the means of voting, shall be kept as part of the record. When a quorum is in attendance, a majority vote of the members present to approve or deny a motion shall constitute the Board's action on the subject of the motion except that the concurring vote of three (3) members shall be necessary to render a decision on an appeal, a suspension, or a revocation. In the case of a tie vote, the motion is lost and the Chair may reopen the discussion to solicit a second motion.

Section 14. Rehearing.

A. The Board may rehear a previously granted or denied application and may modify its decision thereon only if:

- (1) The hearing is conducted and the decision modified at a time prior to the date an appeal of the initial decision must be perfected pursuant to C.R.C.P. 106(a)(4); and
- (2) There has been a substantial change in the facts or law subsequent to the initial hearing.

Prior to any rehearing, the Board shall cause proper notice thereof to be given to the parties and the public.

Section 15. Transcripts. Any person seeking judicial review of a decision of the Board, or otherwise requesting a transcript, shall pay to the City the cost of preparing the transcript. If members of the City staff prepare the transcript, the amount of the charge shall be as determined by the City Manager.

THESE BYLAW AMENDMENTS ARE ADOPTED by the Building Code Board of Appeals this _____ day of _____ 20__ _.

Chair

Chief Building Official/Secretary



Dianne M. Criswell

(303) 298-1601 tel

(303) 298-1627 fax

dianne@kellypc.com

MEMORANDUM

TO: Robert Zuccaro, Director of Planning & Building Safety
Chad Root, Chief Building Official
City of Louisville

FROM: Dianne M. Criswell

DATE: November 19, 2018

RE: Contractor License Suspension and Revocation Procedure

The purpose of this memo is to provide an overview of the procedures set forth in the proposed amendments to the by-laws of the Building Code Board of Appeals (“Board”) to implement the Board’s authority to temporarily suspend or permanently revoke contractor licenses and registrations for building code violations. The proposed amendments are drafted to the Board’s current by-laws, dated December 15, 2011.

If the Board approves the 2018 by-law amendments, this memo may be revised to provide an overview of the procedures adopted.

I. AUTHORITY TO ADOPT PROCEDURES

The Louisville Municipal Code (“LMC”) provides the Board specific administrative power to make changes to its by-laws to provide the proper and fair process for license suspension and revocation hearings:

The board shall ... have the authority to *hear and decide* applications for the *suspension, revocation and appeal* of denial of contractor's licenses and registrations, as provided in chapter 5.12 of this Code. Any decision for suspension, revocation or denial on appeal of a contractor's license or registration shall require not less than three affirmative votes. The board, through the city clerk, may require the presence of persons and the production of papers, books, and records necessary to the determination of any suspension, revocation or appeal hearing, and the *board shall adopt reasonable rules and regulations for the conduct of such hearings*. LMC § 15.56.101.G.

II. AUTHORITY TO HEAR AND DECIDE REVOCATIONS

In Chapters 5.12 and 15.56 of the LMC, the City delegates to the Board the authority to temporarily suspend or permanently revoke a license or registration if the holder thereof (the “licensee”) is found to have committed one or more acts prohibited in the building codes.¹ Further, the LMC provides that the Building Official may require a licensee to appear before the Board for a hearing, initiated by the official’s motion or by verified complaint.²

III. PRE-HEARING PROCESS

A. Building Official’s written statement to the Board will initiate hearing.

Pursuant to the new Article VIII of the Board by-laws, a suspension/revocation hearing process is commenced when the Building Official files a signed, written statement with the Secretary of the Board. There are two (2) avenues to initiate a written statement from the Building Official:

1. Hearing Initiated by Building Official.

If the hearing process is initiated by Building Official motion, the motion shall be in the form of a written statement, signed by the Building Official, including:

- citation to the code and section under which the suspension or revocation is being initiated;
- a concise statement of the facts;
- the recommended administrative action;
- a description of any health, welfare, or safety concerns that necessitate an expedited process; and
- copies of all non-testimonial evidence on which the City intends to rely at the hearing.

(This is similar to the information required in an application for an appeal of a final decision of the Building Official in the Board’s 2011 by-laws, except for the suspension/revocation process, Building Official’s written statement includes a recommendation on the administrative action (suspension and length of suspension, or revocation) and a description of any exigent circumstances.)

2. Hearing Initiated by Verified Complaint.

If the hearing process is initiated by complaint, the Building Official shall review the complaint for purposes of determining if there are facts and grounds to require a licensee to appear before the Board.

¹ LMC § 5.12.140.A.

² LMC § 5.12.140.B.

A complainant who requests the Board consider suspension or revocation of a license or registration shall submit a signed and sworn affidavit to the Building Official on a form designated by the Board.

If the Building Official determines that there are sufficient facts and grounds to require a licensee to appear before the Board, the Building Official shall verify the complaint in the form of a written statement, signed by the Building Official, including:

- citation to the code and section under which the suspension or revocation is being initiated; a concise statement of the facts;
- the recommended administrative action;
- a description of any health, welfare, or safety concerns that necessitate an expedited process;
- copies of all non-testimonial evidence on which the City intends to rely at the hearing; and
- attaching the complaint affidavit.

However, if the Building Official is unable to determine that there are sufficient facts and grounds to require a licensee to appear before the Board, the complaint may not be verified.

Either way, after the Building Official's investigation to determine if there are sufficient or insufficient facts and grounds in a complaint to require a licensee to appear before the Board, the Building Official shall provide the complainant with written notification.

B. Scheduling Hearing and Providing Notice

Upon the receipt of a written statement, signed by the Building Official, a hearing shall be scheduled within thirty (30) days after the filing, but the Board shall consider health, welfare, or safety concerns detailed in the written statement and schedule a hearing as soon as practical, provided adequate notice is provided to the licensee.

At least five (5) days prior to a hearing, notice of the hearing shall be served to the licensee by providing a copy of the Building Official's written statement that was filed with the Board and the date and time of scheduled hearing. Notice shall be personally served or mailed to the last known address of the person as set forth in the records of the City.

At least five (5) days prior to a hearing, the Secretary shall provide each Board member a copy of the a copy of the Building Official's written statement that was filed with the Board so that the Board members may familiarize themselves with the appeal prior to the hearing.

IV. HEARING PROCEDURE

The hearing procedures for license suspension/revocation are the same as for appeals of a final decision of a Building Official, except for the burden of proof and the order of the hearing proceedings.

The City is the party seeking the administrative remedy from the Board; therefore, the City has the burden to show by a preponderance of the evidence that the licensee violated the building code. Further, the City, rather than the licensee, presents first to the Board.

As with appeals, at least three Board members must affirmatively vote for license or registration suspension or revocation.³

V. POST-HEARING

The post-hearing procedures for license suspension/revocation are the same as for appeals of a final decision of a Building Official, except for the following:

- File a copy with Clerk and notify City Departments. If the Board orders the suspension or revocation of a license or registration, a copy of the decision needs to be filed with the City Clerk – and e-mail notification of the suspension or revocation provided to the relevant City Departments (Permits & Licensing and Planning & Building Safety).

VI. EFFECTS OF SUSPENSION OR REVOCATION

The by-law amendments provide the following direction on suspended or revoked licenses or registrations:

- upon the suspension or revocation, a license or registration is null and void, along with all privileges associated;
- during a period of temporary suspension, no licensee shall exercise any privileges of licensure or registration;
- if the Board orders revocation of a license or registration, **the licensee must surrender the license by delivering it to the Permits & Licensing department director;** and
- no licensee who has had a license or registration suspended or revoked is entitled to obtain the same or any similar license during the period of suspension or revocation, either in the licensee's own name or as a principal in another business that applies for a license.

³ LMC § 15.56.101.G.

VII. CONCLUSION

There may be additional changes in the LMC that may be desired to achieve more or different policy goals. However, the by-law amendments described above are drafted to implement the existing authority delegated in the LMC to the Board.

If you have any questions, please contact me.

cc: Heather A. Balsler, City Manager

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Kelly PC
101 University Boulevard, Suite 210, Denver, CO 80206



Submit this form to the Chief Building Official in the Department of Planning and Safety, Louisville City Hall, 749 Main Street, Louisville, Colorado, 80027.

AFFIDAVIT

This affidavit certifies that I, _____, hereby allege that
(Name)

_____ committed one or more acts prohibited by the City's building code
(Contractor Name and Lic. #)

and request that the City make a motion to the Building Code Board of Appeals (Board) to schedule a hearing to consider an administrative remedy of temporary suspension or permanent revocation of the license or registration. In signing below, I acknowledge that the City may not make the motion to the Board if my complaint cannot be verified by the City Building Official.

I hearby swear or affirm that the facts and statements set forth below are true and correct to the best of my knowledge and belief.

Signature of Complainant: _____ Date: _____

Physical Address of Complainant: _____
(Street, City, State, Zip)

Mailing Address: _____

Business Address Phone: _____ Residence Phone: _____

Fax: _____ Email Address: _____

STATE OF COLORADO
COUNTY OF BOULDER

Before me, _____, a notary public, authorized to administer oaths, in and for said State of Colorado, personally appeared _____, whose name is subscribed to the foregoing Complaint Affidavit, and who affirms, said statements are true and he/she acknowledges for execution of said instrument to be of their own free act and voluntary deed for the uses and purposes therein set forth.

Subscribed and affirmed before me this _____ day of _____, 20____.

(Seal)

Notary Public Signature

COMPLAINT AFFIDAVIT INSTRUCTIONS

Fill out this portion of the form with the information the Building Official will need to investigate the complaint in order to verify the complaint add additional sheets if needed to describe the situation to the CBO and the Board.

COMPLETING THE FORM

1. Print or type the name of the complainant on the first line.
2. Print or type the contractor's business name and license number against whom the complaint is being filed.
3. Print or type the physical address of the complainant, including street, city, state and Zip Code.
4. Print or type the complainant's business or residential telephone number.
5. Print or type the complainant's email address. The Chief Building Official or his or her designee will use this address to send notices and correspondence.
6. The complainant must sign and date the form in the presence of a **Notary Public**.
7. **The remainder of the form must be completed by a Notary Public.**

Please note this form and all the information contained within is considered public information. All information is required.