City of Louisville
COLORADO · SINCE 1878
Department of Planning and Building Safety
749 Main Street • Louisville CO 80027 • 303.335.4592 • www.LouisvilleCO.gov

Building Code Board of Appeals

Agenda

October 10, 2019
City Hall, Council Chambers
749 Main Street
6:30 PM

I. Call to Order
II. Roll Call
III. Approval of Agenda
IV. Approval of Minutes
- May 2nd· 2019 with corrections
- June 6th, 2019

V. Public Comments on Items Not on the Agenda
VI. Regular Business
VII. Discussion
- BCBOA Bylaw changes

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

May 2nd, 2019
City Hall, Council Chambers
749 Main Street
6:30 PM

Call to Order: **Matt Berry** called the meeting to order at 6:30 PM.

Roll Call was taken and the following members were present:

Board Members Present:	Ed Novik Matt Berry Steve Knapp
Board Members Absent:	Peter Giese Mason Gatto
Staff Members Present:	Chad Root, Chief Building Official Julie Burgener, Building Permit Technician
Others Present:	Dianne Creswell, City Attorney Severy Creek, owner Steve Louden John Gstalder, Severy Attorney

Approval of Agenda:
Knapp moved and **Novik** second a motion to approve the agenda as prepared by staff. Voice vote. Motion passed 3-0.

Approval of Minutes:
Knapp moved, **Novik** second a motion to approve the February 21, 2019 minutes as prepared by staff. Voice vote. Motion passed 3-0.

Public Comments on Items not on the Agenda:
None heard.

Regular Business:
Election of Board Secretary:
Novik nominated and made a motion for Julie Burgener to serve as board secretary, **Knapp** second. Motion passed, voice vote,3-0.

Severy Creek Show Cause Hearing

Berry called the hearing to order. Berry states this is a request to suspend or revoke a contractor's license due to alleged violations of one or more provisions of Municipal Building Codes. Berry states procedure for the hearing.

A. Opening Statements
B. Presentation of Evidence by city(including witnesses)
C. Presentation by Licensee(Severy Creek, owner Steve Louden or attorney, Mr. Gstalder(including witnesses)
D. Additional Rebuttal Evidence by either side
E. Closing Statements

Berry states the hearing is being recorded and exhibits admitted, marked and identified before admission.

Board Member disclosures: none

Commencement of hearing:

Chad Root, Chief Building Official (CBO), appearing for the city and John Gstalder, appearing for Severy Creek owner, Steve Louden. Both state they are ready to proceed. Berry asks any speaking at the hearing take the oath. Berry recites the oath.

Berry makes record of the hearing being the Show Cause, Written Statement and evidence in the packet. Creswell states that all present have received the Show Cause, Written Statement and evidence in the packet and will be entered as evidence now or when presented during testimony.

Opening Statement by City:

Chad Root states that an affidavit was received by resident Ted Hine, on March 14,2019 for revocation of a contractor's license. He was one of two owners that Louden installed a roof without a permit. Root states Hine was upset with no permit issued and the direction Louden went with installing the roof first, then pulling the permit once he realized Ted wanted a permit. Root states the affidavit says that Louden returned Hine's roof to install drip edge after Hine realized there was no permit or inspection. Root states the city records also found 1160 Hillside Lane was completed without a permit. Others were completed without a mid-roof inspection--some covered too far for mid roof inspection, others he did not want to comply with building code. Root states liens went out to resident's homes due to Louden not paying his sub-contractors.

Opening Statement by licensee's attorney, Mr. Gstalder.

Gstalder states the importance of the board's function and states the seriousness of this decision. Gstalder states these are honest mistakes. Gstalder states Louden has nothing to gain by not pulling a permit because insurance pays for them. Two fell through the cracks due to having too many. Gstalder states Louden paid 2x the

amount for one of the permits and 4x the amount for the other. Gstalder states that Louden attained permits once he discovered no permit was pulled. Louden is a longtime resident, raised his kids and has coached in Louisville. Gstalder states Louden has helped a lot of residents after the June 2018 hail storm with the insurance process and temporary fixes. Gstalder states these were honest disputes with the inspectors regarding ice and water shield. Louden has never abandoned a customer. The statements of liens were a "notice of intent" to lien, not a recorded lien. Gstalder hopes this is not an appropriated case for revocation/suspension of license.

Presentation of Evidence by city:

Roots states Hines is not available as a witness. Berry states and marks the evidence in the packet as exhibit A. Berry asks for objection. Gstalder has an objection due to the fact Ted Hine is not available and the affidavit is a conclusion, not fact. Berry states it is prudent to accept the signed affidavit as evidence as it was approved. Exhibit A is admitted. Root states the affidavit must meet criteria in order to present to the board. Roots presents the following-1. Alleged fact, a roof was installed without a permit. 2. Alleged fact, no call for required inspections. 3. Alleged fact, no mid roof inspection-per land management code. 4. Alleged fact, 611 w. Sagebrush too much roof covered for inspection-land management code. 5. Alleged fact, 1160 Hillside Lane, no mid roof inspection. 6. Alleged fact,1160 Hillside, no permit issued. 7. Alleged fact, 583 Manorwood lane, inspector had corrections but were never corrected, no ice and water shield 8. Alleged fact, several expired permits, 1004 Turnberry, 592 McCaslin, 269 S McCaslin. 9. Alleged fact, failure to pay his sub contractors.

Cross Exam by Gstalder: Gstalder asks was a permit eventually pulled on 318 South Pl? Root states a permit has been pulled and is ready for final inspection. Root states the mid roof was not done. Shingles were pulled back for a spot check and the mid roof inspection passed. Gstalder asks 516 Grant, a permit was pulled Root states there was a permit issued. Gstalder asks if there was a mid-off. Root states too much was covered so no inspection took place. Gstalder restates too much of the roof was covered in order to perform a mid-roof inspection but the inspection were called in. Gstalder states, 1160 Hillside did not get a permit, then asks Root—did they get a permit. Root states after paying penalties Louden did get a permit for 1160 Hillside. Gstalder asks, what the status is of that permit Root states he believes it has passed the final inspection. Gstalder asks if the city was aware Louden was disputing the necessity of installing ice and water shield over a porch. Root stated he did not know that. Gstalder asks were Turnberry, and the two McCaslin addresses granted extension. Root states he would have to look into the permitting software to be sure. Gstalder states in the packet and the city's paperwork it shows extensions were granted. Gstalder asks if Root knows of any liens being recorded in Boulder County Land Records. Root states that he is aware that residents calling him are asking why they were getting liens on their property. Gstalder repeats the same question. Roots states he is not aware of recorded liens.

City Response to Cross Exam: none

Board Questions to the city:

Novik asks what is the length of time for a building permit. Root-180 days and another 180 after each passed inspection. Novik asks if this is modified in light of the hail storm. Root responds it is standard unless extension is requested before permit expires and the contractor has shown reasonable cause for extension. Knapp asks why one-third of Severy Creek inspections have failed and if it is normal. Root responds, at first it is, but once the contractor understands what is required in Louisville that number drops.

Presentation of Evidence by Licensee(attorney Gstalder):

Berry accepts the evidence from Severy Creek as exhibit A. Gstalder interviews Steve Louden, owner of Severy Creek. Louden states his background, bought a house in 1989, raised his kids, member of rotary and coached at LMS. He has been roofing since 2009 and works in Boulder County, Douglas County, Lakewood, Front Range and Wyoming. Louden states he has not had a contractor's license revoked. Louden states Hunter Louden, his son, helps with permits and insurance. Since hail storm in 2018, Severy Creek has pulled about 100 reroof permits, 95 completed, four pending due to insurance. There are five residential and four commercial open permits presently. Louden uses subcontractors to install all roofs. Gstalder asks if Louden was aware no permit was issued for Ted Hine. Louden states he requested a permit be pulled by texting or talking to Hunter with no follow up. Louden states his subs showed up to start the job—he heard there was no permit so stopped the job and got a permit. Louden's testament is he thought a permit was pulled and he started the roof. Louden states he does not know if they completed the roof before the permit was issued. Louden states Ernie Mullen or Ted Hine told Louden there was no permit. Louden paid for the permit plus $100. Gstalder presents a letter to the board stating he gave Ted Hine an upgrade in shingles plus Ted received additional money from insurance due to his efforts. Louden states Ted does not want to pay him. Louden emailed Chad Root saying he would do anything to pass roof inspections. Louden states he tore off entire section of roof to show installation was correct with no charge to Ted Hine. Louden states that Ted said he was not happy with the city's process. Louden stated Root says a final inspection is being held off pending this hearing. Gstalder requests another item into evidence as Article B. The letter states 516 Grant was completed without a mid-roof inspection. Louden recalls the address of his good friend, Bill Ryan, and states his subs went too far on the mid roof so shingles were removed. A permit was issued and re inspection occurred and roof finaled. Louden states 611 Sagebrush was the same situation and Severy Creek installed the roof according to manufactures specs. Gstalder presents a BBB testimony into evidence. Berry accepts it as exhibit C. Louden states there was a mix up between 1160 and 1169 Hillside. Louden paid 4x the original permit for 1160 Hillside. Gstalder asked if Louden has learned his lesson from this. Louden states he has had two approvals without hiccups. Gstalder asks Louden if he can tell the board he understands this issue. Louden states he signs off on all reroofs now and take it

very serious. Gstalder asks why Louden refused to obey an order. Louden states it is one of his very best friends in Louisville and they installed Ice and Water Shield beyond what it needed. The roof is completed and has an upgraded shingle. Gstalder presents a testimony from Frank Mendicino saying he is happy with is reroof-583 Manorwood. Berry accepts it as Exhibit D from licensee. Gstalder inquiries about three expired permits. Louden replies they have been granted extensions. Gstalder asks about alleged liens. Louden states the home of James Medina had some issues and he was asked to fix the roof. Louden states the leak did not come from the installation but because the house was old. Louden states he was not going to pay his sub-contractor until they fixed the leak. Louden states that, in turn the sub-contractor presented an intent to file a lien at 211 Lafayette St. Louden states he and his subcontractor went back out to the house and fixed the leak. Louden states James Medina paid his balance and was very happy. Gstalder asked if the roof decking was rotted and full of holes. Louden states he thought it was from the swamp cooler. Louden states he fixed the decking, reroofed, insulated and replaced ductwork, although it was not a Severy Creek problem---and at no charge. Gstalder inquiries about failed inspections. Gstalder questions the math of one third being failed. Gstalder asks if Jenny Lane prepared the report. Louden states he thinks so. Gstalder asks if Jennie Lane is here tonight. Louden replies, no. Gstalder asks if there is a failed inspection does it means it is a bad installation. Louden replied, no, it may need, for example, more flashing. Gstalder asks if Louden is putting on "F" quality roofs. Louden states no. Gstalder presents letter from a Severy Creek customer, the Favres, stating they are please with their roof. The second page is from another pleased customer. Louden states he has given upgrades, extra rows of ice and water shield, and works with commercial insurers. Gstalder asks Mike Favre to speak about Louden. Favre introduces himself (no address stated) and states they were happy with roof installation and it is his second reroof since living in Louisville. Favre states Louden had a good crew. Favre states he does not know a lot about roofing so he let Louden work out the details with the insurance. Favre says there was an issue with gutter, but was corrected within a few days. Gstalder moves to accept Favre testimony in to evidence. Berry allows it as exhibit E. Gstalder asks Louden if he understands that the building inspectors are not happy with him. Louden states that he thinks so and that there were a couple roofs, like the one on Manorwood, at his best friend's house, was an issue with timing and work load—then states he understands. Gstalder asks what has Louden done to remedy working without a permit and covering too much of the roof? Louden states the workload is lower and he is managing the projects better. Louden states- he takes this serious and it matters to him, to his family, and is a proud member of Louisville.

City of Louisville Cross Examination:

Root states the inspections he asked Lane to prepare showed requested inspections when the job had not been started—that is why it is a failed inspection. Root states this shows the number of failed inspection and why. Root states the city spends time and money to look at these projects. Root requests that a statement be corrected—the statement in which inspectors "don't like Louden". Root states Louden has had multiple roofs started without permits and several missed mid roof inspections. Root

states, the Hine affidavit states Severy Creek Roofing completed the roof without a permit, then asked for payment, the realized Ted asked for a permit—then came to the city for a permit. Root states it's these violations, over and over again, is why the city is here tonight.--it's not because the inspectors don't like Steve Louden. Root states there has been a big change for the better, but overall permits had not been pulled, nor inspections called, which in turn, creates a hardship for the residents. Gstalder points out that what Root says, in regard to Hines, is hearsay.

Questions from the Board to Licensee:

Novik asks Louden of 100 permits pulled in 2018-19 in Louisville and how many other in other cities? Louden replies less than 30. Knapp asks Louden where his subcontractors live. Louden replies-Denver area.

Board Member Final Questions:

Berry restates the entire packet is Exhibit A. Knapp asks- who is Isaias Huizar? Root replies-he is our full time senior roof inspector. Knapp **asked a question regarding the office at which Huizar letter. Root replies the Louden situation was discussed several times in the point Root called to meet with Louden. Louden, Root, and inspector Randy Dewitz met mid-March of 2019. Root states they discussed with Louden what was taking place in the field. Louden agreed to start pulling permits. Root reviewed the process for inspections. Root stated this occurred before the affidavit was submitted to the city. Knapp asks have things improved since. Root replies there** is a huge increase in compliance. Berry asks when the date of the Louden meeting was. Root says first part of March. Louden concurs. Novik asks under normal conditions what is the turnaround time for inspections. Root replies, mid-roof inspections were always next day due to exposure of roof. Novik asks what the turnaround time is for a permit to be issued. Root replies on a normal basis it would be over the counter, during the post hail storm up to 30 days.

Closing Statements:

Root states the City is here on behalf of the resident. Hine's affidavit in which Severy Creek completed the roof without a permit, then asked for payment, then realized Ted asked for a permit—then came to the city for a permit. Plus the work was substandard and pictures of additional drip edge led the city to look at other issues with Louden. Root states the contractor should not continue to work in this manner.

Gstalder states Louden has deep roots in the city and most of his work is in Louisville. Gstalder states that the work Louden has started would be messy if his license is suspended. Louden was moving too quick and his subs were moving too quick. Louden understands the problem and is going out to the job before calling inspections. Louden puts good roofs on and does not abandon people. Gstalder states he hopes you find it not necessary to revoke/suspend Severy Creek's license.

Berry asks for any further matters: none

Berry closes the hearing.

Deliberations:

Novik states he has asks his questions and would like to make a statement. Knapp states he would like more discussion and asks for board options. Berry clarifies suspension and revocation and the city recommends nine months suspension. Knapp asks—he does not have to stop what work he has but cannot apply for new permits. Berry replies, yes. Gstalder points to Sec 4 pg.11in the Bylaws. Berry states the recommendation of the city staff may conflict with the Bylaws. Gstalder reiterates page 11,12, 7(a and b)-- if license is suspended or revoked all works stops. Berry asks for a response from Root. Root states the city's thought is Louden can finish the work that has been started if the homeowners want him. Knapp states Louden deserves something but suspension is too far because this is his home and where he works. Berry interjects does the licensee meet the requirements for suspension or revocation. Knapp states he feels there has been a positive change in Louden. Knapp states he should not be told to stop work he started, but do something so he carries on in a positive direction. Novik restates evidence presented. Novik states he does not see distinction in suspension or revocation and this would be an item addressed in the Bylaws at a different time. Novik states Louden has had difficulty managing his work in a storm of this magnitude. Novik states in light of these facts Louden does not meet the criteria for suspension/revocation. Berry states Louden meets item C1--a licensee conducts their business in a manner contrary to the condition of the license. Berry states if calling inspections, taking a gamble hoping it's ready or going to pass **inspection is not OK (item C). Berry concludes that the BCBOA is not a Consumer Reporting Bureau—the board needs to focus on the task at hand, which is the Bylaws and criteria for suspension or revocation.** Knapp states these items could have been fixed if an inspector was available and there should be (inaudible). Novik states perhaps there should be a probationary period rather than suspension. Novik states the Bylaws do not take into account extenuating circumstances. Berry asks Root, is it normal to have inspections next day? Root replies, yes, if you call in the day before, before 4pm. Berry asks Louden, did the city show up next day for midroofs. Louden replies most mid roof inspections were next day. Berry asks were any mid roofs inspections covered on those inspections. Louden replies, the only one he knows of is 516 Grant. Berry revisits evidence with Louden. Berry asks the board for a motion.

Action:

Novik moves and **Knapp** seconds that insufficient evidence has been presented to revoke or suspend Severy Creek's contractor's license. Berry polls Novik, Knapp and Berry. The motion passes, voice 3-0.

Discussion Items: None

Staff Comments: None

Board Comments:
Knapp comments that the city staff needs to be more careful and not let it happen again. Berry comments that the staff went above and beyond what was necessary in order to keep roofs safe and correctly installed. Knapp states the city needs to do better than what they have done. And Louden did not deserve to be put out of business.

Date of Next Meeting:
Upon Request

Discussion Terms for Next Meeting:
Novik states the board should take the Bylaws into consideration and advisement which explores a third alternative.

Adjourn:
Knapp moves to adjourn **Novik** seconds the motion passed unanimously by voice vote. The meeting is adjourned at 8:50pm.

DRAFT

Building Code Board of Appeals

Meeting Minutes

June 6th, 2019
City Hall, Council Chambers
749 Main Street
6:30 PM

Call to Order: Matt Berry called the meeting to order at 6:32 PM.

Roll Call was taken and the following members were present:

Board Members Present: Matt Berry, Peter Giese, Ed Novik, Steve Knapp

Board Members Absent: Mason Gatto

Staff Members Present: Chad Root, Chief Building Official, Julie Burgener, permit tech

Approval of Agenda:
Knapp moved and Peter seconded a motion to approve the agenda as prepared by staff. Voice vote. Motion passed 4-0.

Approval of Minutes:
Board member Berry asked for corrections (item one- add Matt's statement- the BCBOA is not acting as a Consumer Protection Agency; item two-add a reference to a meeting Root had with Severy), Giese motions, Knapp seconds the minutes not be approved till items are added. Voice vote. Motion passed 4-0.

Public Comments on Items on the Agenda:
Resident, Ted Hine was allowed a twenty one minute statement for the public record presenting his case regarding the quasi-judicial hearing with Severy Creek held on April 18th, 2019, in which he was unable to attend. Berry thanked the Mr Hine for attending the meeting.

Regular Business:
Bylaw adjustments-Matt Berry would like the wording-- once a contractor's license is revoked and/or suspended all work must stop—which could result in a unfortunate or dangerous situation for homeowner. Root discussed amending the by-laws so that

if, for example, a roofer gets a license revoked with a roof incomplete or a large excavation left open, possibly allow the contractor to complete the projector projects they started. Root continued to suggest allowing the contractor to complete the work permitted before revocation. Novik suggested redefining suspension-then the by laws require modification, not the ordinance. Novik noted the path of least resistance is to redefine suspension, and would be much more expedient. Novik suggested the contractor finishing any open jobs under very strict supervision and no other permits allowed. Giese reiterated. Berry recommended that decision be at the discretion of the CBO for safety purposes. Berry stated the roofing work was a phenomenon, under a general contractor the homeowner needs to deal their contractor, the BCBOA is not a Consumer Reports Agency. The bylaws need to state clearly that when a license is revoked the BCBOA has authority to suspend a license while permitting the work in progress to be complete to an extent, being it is safe. Berry gave a brief history of Louisville's contractor licensing.

Discussion Items:

Staff Comments:
Root stated that reroofs have slowed down and the city will no longer be doing Saturday inspections after June 15th. The city has been doing Saturday inspections for almost a year. The city's fulltime mid roof inspector's last day will also be done on the 15th. Our temp admin will be done on July 31st. Root commented that Lafayette has an affidavit for mid roof inspections, Broomfield may do the same. Loveland has an affidavit as well. None of these cities get on the roof for finals due to CIRSA insurance restrictions.

Root made clear, using a map, that when a contractor gets a license suspended there are many municipalities around that the contractor can go to. BCBOA will not put a contractor out of business. The BCBOA needs to think about the resident first.

Discussion Items for Next Meeting:
Suggested amended language for the Bylaws

Adjourn:
Giese moved and Novik seconded a motion to adjourn the meeting. Motion passed unanimously by voice vote. The meeting was adjourned at 7:30 PM.

Dear Julie and Chad,

Attached are the edits. Here are a summary of the changes:

- The Board's authority to adopt rules and regulations provides reasonable grounds for it to adopt a "conditions in lieu of suspension" process. Therefore, the Board Members will see, in addition to the addition of Article VIII, Section 8, that Section 2 of the same Article VIII has been amended to expressly refer to the Board's rulemaking authority.
- I believe that at the last meeting I'd attended, Board Members raised whether Article VII, Section 5, Subsections D and E were relevant. I'd adapted those revocation criteria from another municipality – and I think those subsections are not relevant to a contractor's license. Therefore, in the attached draft, those subsections have been deleted.
- I've added that the Board may provide exceptions for orders of suspension for existing work.

If you or the Board have any questions about the attached, please let me know.

Sincerely,

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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.

A. Quasi-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:

(i.) 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

(ii.) 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

(ii.) 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 restiveness, 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. Further, the Board, in adopting these reasonable rules and regulations for conducting its business, meetings, and its deliberations relating to license suspension or revocation, acts pursuant to its rulemaking authority set forth in Section 15.56.010.C. 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, except as otherwise ordered by the Board. During a period of temporary suspension, no licensee shall exercise any privileges of licensure or registration, except as otherwise ordered by the Board. 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.

Section 5. Criteria for Revocation. Unless otherwise limited by state law, a license may be revoked on any of the following grounds:

A. Fraud or misrepresentation:
   i. Fraud or false statements in the application for the license; and/or
   ii. Fraud or misrepresentation in the course of conducting the business.

B. Failure to keep records or make necessary payments to the City:
   i. Failure to make timely payment of any fees, charges or penalties imposed pursuant to the Louisville Municipal Code; and/or
   ii. Failure to make timely and full payment of taxes due under Title III, Louisville Municipal Code; and/or
   iii. Failure to keep and maintain permanent records that, in accordance with accepted accounting practices as determined by the City Finance Director, are necessary for establishing the licensee's tax liability.

C. Misconduct of the business:

i. The licensee conducts the business in a manner contrary to the conditions of the license; and/or

ii. The licensee conducts the business in such a manner as to create a public nuisance as defined by ordinance or by statute or in a manner as to constitute a danger to the public health, safety or welfare; and/or

iiiv. The conduct of the licensee's business consistently creates excessive need for City services and causes the City to expend public funds beyond normal requirements to protect the public health, welfare and safety; and/or

iv. The licensee conducts the business in a manner that would have justified denial of the original application for a license.

D. ~~Repeated violations of one or more ordinances in the Louisville Municipal Code at the licensee's place of business by the licensee or patrons of the business.~~

~~E. The business is of such a nature, or is operated in such a manner, that it is frequented by individuals who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or who by intimidation, threat, harassment or other hostile conduct seriously disrupt any other business in the immediate neighborhood of the licensee, thereby causing such business unreasonable economic loss.~~

~~F.~~ Conviction of any violation of federal, state or municipal law related to the operation of the licensed business.

~~G~~E. Conducting work in the City with a suspended license, pursuant to Subsection B. of Section 7 of these Bylaws.

F. Failing to comply with any conditions placed on a license in lieu of suspension, ordered pursuant to Article VIII, Section 8 of these Bylaws.

~~H~~G. Upon other grounds provided by ordinance or statute.

Section 6. Criteria for Suspension. Unless otherwise limited by state law, a license may be suspended upon any grounds for license revocation set forth in Section 5 of these Bylaws if:

Commented [DC1]: This language was from one of the examples from other municipalities' contractor license suspension/revocation processes. However, these sections appear to better apply to business licenses for day-to-day operations of a business, rather than to a contractor license.

I believe Board members may have considered deleting these sections and renumbering the remaining subsections accordingly.

A. The licensee's violations or actions are based on three or fewer of the grounds set forth in Subsections A., B., C., ~~D., E., or H~~F. or G. of Article VIII, Section 5 of these Bylaws;

B. The licensee's violation is not based on Subsections D~~F~~. or E~~G~~. of Article VIII, Section 5 of these Bylaws;

C. The licensee's license has never been suspended or revoked by the City, or the licensee has maintained a license for five or more years; and

D. The nature of the licensee's violations or actions in Article VIII, Section 5 of these Bylaws is not severe enough to warrant revocation.

Section 7. Effects of Suspension or Revocation; Reinstatement.

A. License is null and void. Upon the suspension or revocation, a license or registration is null and void, along with all privileges associated, except as otherwise ordered by the Board. During a period of temporary suspension, no licensee shall exercise any privileges of licensure or registration, except as otherwise ordered by the Board. 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.

B. Term of and effect of license suspension. If the Board elects to suspend a license, the license will be suspended for a period of no less than six (6) -months and no longer than (twelve (12) months. A contractor who holds a suspended license shall not proceed with any construction within the City until the license has been reinstated, unless the Board's order of suspension specifies that the order applies to new construction activities in order to allow licensee's existing construction projects to be completed in the interest of the persons for whom the construction work is being conducted or the general public interest. Any contractor with a suspended license found doing unlawful activity during the time of suspension will have their license revoked for a period of two years.

C. Term and effect of revoked license. A revoked license will be for no less than one year and no greater than five years unless the Building Official recommends revoking the license greater than five years and it is the second offense against the licensed or unlicensed contractor. If the Board orders revocation of a license or registration, the licensee must surrender the license by delivering it to the Planning & Building Safety Director.

D. Restoration or re-application for licensure. A suspended or revoked license may be restored only if the contractor has completed their licensing sentence and illegal acts have not been found during the time of suspension. The Board, pursuant to these Bylaws, or the City under the Louisville Municipal Code may require the contractor to resubmit the license application and pay associated fees to restore a suspended or revoked license, depending on whether additional information or review is necessary.

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Section 8. Conditions In Lieu of Suspension

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A. Conditions in Lieu of Suspension. After the Board makes findings of fact and concludes that a licensee's violation(s) meets the criteria for suspension under Article VIII, Section 6 of these Bylaws, the Board may consider statements of mitigating or aggravating factors by the parties. If the Board determines that, although a violation occurred, suspension is not appropriate due to mitigating factors, the Board may order conditions on licensee's license, requiring the licensee to take actions or meet conditions in lieu of suspension. Conditions ordered in lieu of suspension must relate to rehabilitating the licensee's practices and compliance with applicable federal, state, and City laws and regulations. Conditions ordered in lieu of suspension may include, but are not limited to, additional training by, communication with, or oversight by the Building Official or his or her designee. Upon a motion by the Building Official or verified complaint alleging a failure to meet the conditions ordered in lieu of suspension, the Board shall require the licensee to appear for a hearing to show cause as to why the license should not be suspended or revoked upon five days written notice.

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.

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, including statements of mitigating or aggravating factors.~~.~~

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.

THESE BYLAWS ARE ADOPTED by the Building Code Board of Appeals this 21st____ of ~~February~~ _____2019.

_____ _____

Matthew Berry, Chairman Peter Geise, Vice Chairman