

CHAPTER 3 - BUILDING BOARD OF APPEALS

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Section 6-3-1: Jurisdiction and Authority:

For the purpose of carrying out the provisions of this Ordinance, and for interpretations of Building Codes, a Building Board of Appeals is hereby created and authorized for Elmore County, Idaho. The Board of County Commissioners has hereby established a Building Board of Appeals, commonly known as "Building Board", for the unincorporated areas of Elmore County.

Section 6-3-2: Membership and Term:

- A. Appointment: The Board of County Commissioners shall appoint seven (7) voting members as follows, each appointed by the Board and confirmed by the majority vote of the Board:
- Two (2) Idaho registered engineers;
 - Two (2) Idaho licensed architects;
 - Two (2) building contractors; and
 - One (1) at-large resident.
- B. Purpose: The Building Board shall hear appeals for, and make decisions on, prior orders, decisions, or determinations made by the Director or Building Official with respect to the application and interpretation of the building code on any construction work in the unincorporated Elmore County.
- C. Residency: The Board shall ensure that the interests of the entire Elmore County are broadly represented on the Building Board and shall select the members without respect to political affiliation and may receive such mileage and per diem compensation as provided by the Board. The Board shall try to appoint members that are residents of the Elmore County during his/her service on the Building Board. However, if there are no qualified candidates, the Board may appoint members from surrounding jurisdictions. The members shall be qualified by experience and training to pass upon matters pertaining to building construction and shall not be employees of Elmore County.

D. Terms: The Building Board members shall be appointed for a term of four (4) years and shall hold office at the pleasure of the Elmore County Board.

Section 6-3-3: Organization and Expenditures:

- A. Organization: The Building Board shall elect a Chairperson and a Vice Chairperson. The Building Board may enact a set of bylaws to guide them. The Building Board shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.
- B. Expenditures and Staff: Expenditures shall be within the amounts appropriated by the Board. The Land Use and Building Department shall provide staff support to the Building Board.

Section 6-3-4: Clerk of Building Board:

The Building Official shall be an ex officio member of, and shall act as secretary to, the Building Board, but shall have no vote upon any matter before the board.

Section 6-3-5: Conflict of Interest:

Idaho Code § 67-6506 pertaining to conflicts of interest involving elected and appointed officials shall apply to the Building Board. A member shall not participate in any proceeding or actions when the member (or his/her employer, business partner, associate or any person related to him/her by affinity or consanguinity within the second degree) has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard. A knowing violation of this subsection shall be a misdemeanor.

Section 6-3-6: Appeal Hearings Conducted by the Building Board:

- A. Format: All Building Board hearings shall be open to the public. The Building Board shall fix its place of meeting and shall conduct a hearing as and when an appeal is requested to the Director. The Appeal Hearing notices shall be posted seven (7) business days prior to the hearing date at the Land Use and Building Department office.
- B. Hearings, Records and Voting: The Director shall maintain a record of hearings, resolutions, findings, and actions taken by the Building Board. All members shall have voting rights.
- C. Quorum: A majority of the appointive members of the Building Board shall be necessary to constitute a quorum at any meeting.
- D. Application: Any applicant, or holder of a current building permit, whose inspection failed, application rejected/denied, or who has been ordered to modify, alter,

remove, or install any building as required by this Ordinance may within ten (10) calendar days thereafter, request an appeal by filing notice in writing to the Director. The Director shall consult with the Building Official to set-up an Appeal Hearing. The hearing shall be held within thirty (30) calendar days of receipt of the notice of appeal or as otherwise agreed upon by parties to the appeal. At the hearing the Building Board may, by a majority vote, affirm, annul or modify the action of the Building Official. If the actions are modified or annulled, a permit shall be updated or issued in accordance with the determination of the Building Board.

- E. Appeal Hearing Fees: Any person appealing a decision of the Building Official shall include payment of a fee in an amount established by the Elmore County Board and listed on the most current fee schedule available at the Land Use and Building Department.
- F. Appeal Hearing Procedures: The Building Board shall receive all evidence on appeal in accordance with the following procedure at the appeal hearing:
 1. The Building Official or designee shall present background information on the appeal in question, including relevant code sections and their interpretation. The board may ask questions during or after each presentation.
 2. The appellant shall be allowed to present any information or applicable code sections to support a reversal of the building official's decision. The appellant shall have up to twenty (20) minutes to present evidence.
 3. The Chairperson shall open the hearing to receive public testimony. Each person wishing to provide public testimony shall be given up to three (3) minutes to do so.
 4. Following the close of public testimony, the Building Official or designee may be allowed up to ten (10) minutes for rebuttal.
 5. The appellant may then have up to ten (10) minutes for rebuttal and any final comments.
 6. The Chairperson may allocate additional time if the clarity of the issue at hand can be enhanced by receiving additional testimony.
 7. Following the hearing, the board may deliberate and render a final decision by a roll call vote, may request more information before a final decision is made, or may take the matter under advisement and reconvene at a reasonable time not to exceed fifteen (15) calendar days to make or render a final decision.
 8. The final decision shall be in writing and a copy provided to the appellant and any parties of record.

G. Appeal to Board: Any order, decision, or ruling of the Building Board may be appealed, by filing notice in writing to the Elmore County Board within ten (10) calendar days of such order, decision, or ruling.

