

Supplemental Information for Applicants

Saskatchewan Construction Standards Appeal Board

July 2022

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<p>This guide is published by the Saskatchewan Ministry of Government Relations for purposes of providing information to users on the topic contained herein. In case of conflict between <i>The Construction Codes Act (the CC Act)</i>, <i>The Building Code Regulations</i> (the BC Regulations), <i>The Energy Code Regulations</i> (the EC Regulations), and <i>The Plumbing Code Regulations</i> (the PC Regulations) and this guide, provisions of the CC Act, the BC Regulations, the EC Regulations and the PC Regulations shall apply.</p>	

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Introduction

The Saskatchewan Construction Standards Appeal Board (the Appeal Board) may establish rules of procedure under section 29 of *The Construction Codes Act* (the CC Act). The purpose of these rules is to facilitate the resolution of appeals in a timely and procedurally fair manner. These rules should be read together with sections 27, 28, 29, 30, 31, 32, 33 and 34 of the CC Act and sections 32, 33, 34 and 35 of *The Building Code Regulations* (the BC Regulations). The Appeal Board has the powers of commissioners pursuant to sections 11, 15, 16 and 25 of *The Public Inquiries Act, 2013*.

Deadlines and Deposits

You can file an appeal of a building official's order, an application for an interpretation order or an application for an exemption order. However, the following requirements must be met before further processing.

Appeals of a Building Official's Order

- The appeal request must be filed with the Chief Codes Administrator (CC Administrator) within 15 days after the service of the building official's order.
- A \$200 deposit must be provided with the appeal request. The deposit may be waived at the discretion of the CC Administrator following submission of evidence satisfactory to the CC Administrator.
- The appeal request must include all substantiating information considered necessary by the CC Administrator.
- The CC Act requires that within 60 days, a hearing is to be held, matters considered and a decision rendered by the Appeal Board.

Application for an Interpretation Order of Construction Codes

- The application for an interpretation order must be filed with the CC Administrator before a building permit is issued by the local authority (municipality).
- A \$500 deposit must be included with your application. The deposit may be waived at the discretion of the CC Administrator following submission of evidence satisfactory to the CC Administrator.
- The application for an interpretation order must include all substantiating information considered necessary by the CC Administrator.
- The CC Act requires that within 90 days, a hearing is to be held and a decision rendered by the Appeal Board. **Note:** A public hearing may not be required if the Board believes it has all the information necessary.

Application for an Exemption Order from Accessibility Standards

- An application for an exemption order must be filed with the CC Administrator before a building permit being issued by a local authority (municipality).
- A \$200 deposit must be included with your application. The deposit may be waived at the discretion of the CC Administrator following submission of evidence satisfactory to the CC Administrator.

- The application for an exemption order must include all substantiating information considered necessary by the CC Administrator.
- The CC Act requires that within 90 days, a hearing is to be held and a decision rendered by the Appeal Board. **Note:** A public hearing may not be required if the Board believes it has all the information necessary.

The Administration Process

The following is a general overview of the administrative process, from the time the CC Administrator receives an appeal or application until a hearing begins and a decision rendered by the Appeal Board.

Once your appeal or application request is received by the CC Administrator, the submitted documents will be date stamped. The received date will be the date of filing the request.

The CC Administrator will review your request to ensure it is complete and eligible for consideration by the Appeal Board.

Ineligible Appeal or Application Requests

The CC Administrator may consider an appeal or application request ineligible and will notify you in writing that the appeal or application is dismissed under the CC Act.

Incomplete Appeal or Application Requests

1. An appeal or application request is incomplete where more information is needed or if the required deposit for that appeal or application has not been received.
2. The CC Administrator will advise you of the additional information necessary.
3. The appeal or application request will not be considered complete until the information and/or full deposit is received.
4. No hearing will be scheduled until the CC Administrator has received all necessary documentation.

Complete and Eligible Appeal or Application Requests

1. The CC Administrator will acknowledge receipt of the appeal or application request along with applicable deposit.
2. The CC Administrator will review the appeal or application request and prepare background documentation.
3. The CC Administrator may require additional information depending upon the complexity of the appeal or application request.
4. The CC Administrator will arrange for all documentation to be identified as exhibits.
5. No hearing will occur until the CC Administrator has received all necessary documentation.
6. Upon receipt of the appeal or application request, the applicable deposit and all documentation that they deem necessary, the CC Administrator will arrange for a hearing by the Appeal Board.
7. The CC Administrator will schedule the hearing to be held on a date and time suitable to:
 - you (the appellant or applicant);
 - the local authority (i.e., municipality) and their appointed building official; and
 - members of the Appeal Board.

8. All efforts will be made to accommodate the hearing within the time period prescribed in the CC Act.
9. The CC Administrator will arrange for the hearing to be held at a barrier-free location in either Saskatoon or Regina. Preference will be given to the city nearest to the local authority where the subject matter of the appeal or application is located.

Before the hearing, the CC Administrator will provide, to both you and the respondent (e.g., building official, local authority, etc.), the documentation that was supplied by the following parties:

- the Appeal Board;
- the local authority;
- you as the appellant or applicant; and
- the respondent (when applicable).

At the discretion of the Chairperson of the Appeal Board, a pre-hearing management conference may be scheduled with the above parties to address any procedural and evidentiary considerations, including document production considerations.

The Hearing Process

Subject to the BC Regulations, the Appeal Board may establish rules of procedure respecting the hearing of appeals before it and has the powers conferred on a commission by sections 11, 15, 16 and 25 of *The Public Inquiries Act, 2013*.

Hearings are open to the public, though deliberations of the Appeal Board will be conducted in closed session.

The Appeal Board can adjourn a hearing at its discretion. In addition, a hearing may be adjourned at the request of either the appellant or the respondent with agreement from the other party for the adjournment.

If you, as an appellant or applicant, fail to attend your hearing, the Appeal Board may dismiss the matter without conducting a hearing. If the other party to the hearing fails to attend, the Board may hear and decide the matter in that party's absence.

Parties

Typically, you and the respondent are the only parties to the hearing.

Other persons may be allowed to make representations to the Appeal Board at the sole discretion of the Board.

The parties may be represented by legal counsel or other agents in the hearing. In some circumstances, the Appeal Board may retain legal counsel from the Office of Tribunal Counsel with the Ministry of Justice.

Witnesses

The Appeal Board and any party to the hearing may call witnesses. The party that asked the witness to appear before the Board will be required to pay all expenses of that witness. Witnesses may be sworn in prior to testifying.

The Appeal Board also has the power to summon witnesses and to compel a witness to produce all relevant documents. If the appellant or the respondent wishes to have the Board summon a witness and/or compel document production, a request must be submitted to the CC Administrator in advance. The CC Administrator will bring that request to the attention of the Appeal Board.

During the Hearing

- The onus is on you, as the appellant or applicant, to establish that there are grounds to allow the appeal or grant the application.
- The CC Administrator is the Secretary to the Appeal Board and is responsible for recording the appeal or application proceedings in minute form and for noting the numbers of the hearing exhibits and for the custody of hearing exhibits.
- The Appeal Board is not bound by the strict rules of evidence. The Board will only hear expert opinion evidence where:
 - such evidence is necessary for the purposes of the hearing; and
 - the Appeal Board has satisfied itself that the proposed witness is a duly qualified expert.
- During a hearing, the Appeal Board may do all things necessary to enable the Board to effectively and completely adjudicate on and settle any question involved.

The Decision Process for Appeals and Applications

The Appeal Board bases its decision on the CC Act related to the appeal or application request. Each section below contains information that are considered for appeals or applications:

Appeal of a Building Official's Order Pursuant to Section 31 of *The Construction Codes Act*

An owner or owner's representative can make application for an appeal under section 31 of the CC Act of an order received from a building official made pursuant to section 25 of the CC Act.

Where an appeal of a building official order issued based on subsection 25(1) or (2) of the CC Act, the Appeal Board shall make one of the following decisions:

- confirming the order being appealed if the Board is satisfied that compliance with the order would result in compliance with the construction standards; or
- revoking or varying all or any part of the order being appealed if the Board is satisfied that:
 - compliance with the order would not result in compliance with the construction standards; or
 - a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the construction standards.

Where an appeal of a building official's order, issued based on subsection 25(3) of the CC Act, the Appeal Board shall make one of the following decisions:

- confirming the order being appealed if the Board is satisfied that the building official's order was reasonable under the circumstances;
- revoking the order being appealed if the Board is satisfied that the building official's order was not necessary to bring about compliance with the construction standards; or
- varying the order being appealed if, in the opinion of the Board, sufficient cause is established.

Where an appeal of a building official order, issued based on subsection 25(5) of the CC Act, the Appeal Board shall make one of the following decisions:

- confirming the order being appealed if the Board is satisfied that an unsafe condition exists and that the steps set out in the order are necessary to eliminate the unsafe condition;
- revoking the order being appealed if the Board is satisfied that:
 - an unsafe condition does not exist; or
 - the steps set out in the order are not necessary to eliminate the unsafe condition;
- varying the order being appealed if, in the opinion of the Board, sufficient cause is established.

An appeal of a building official order does not operate as a stay of the order or decision being appealed unless the Appeal Board, on an application by you the appellant, decides otherwise.

Application for an Interpretation of Construction Codes Pursuant to Section 32 *The Construction Codes Act*

Before a permit is issued by the appropriate local authority, an owner, local authority, building official or constructor may apply to the Appeal Board for an order to determine an interpretation of a provision of the National Building Code of Canada (NBC) or the National Energy Code of Canada Buildings (NECB) for a specific construction project.

- If an application for an interpretation is made by you as an owner or constructor, the local authority will be given an opportunity to provide a response before the Appeal Board renders a decision.
- The Appeal Board may grant an interpretation order determining how any requirement of the NBC or NECB is to be applied or interpreted as it pertains to the construction in question.
- The Appeal Board interpretation order is specific to the building in question and would not be applicable to other buildings not listed in the interpretation application.
- The Appeal Board interpretation order would not be in effect where six (6) months has lapsed between the written decision and the issuance of a building permit.
- The Appeal Board order may be rescinded or varied by the Board where:
 - no building permit has been issued by the appropriate local authority; and
 - the Appeal Board believes that the order would result in a loss of public safety or non-compliance with the CC Act.
- The Appeal Board interpretation order is not binding on any decision of the Board including any future appeals.

Application for an Exemption from Accessibility Standards Pursuant to Section 33 of *The Construction Codes Act*

Before a permit is issued by the appropriate local authority, you as an owner of a building or proposed building, may make an application under section 33 of the CC Act for exemption from construction standards requiring the combination of various elements of the built environment to allow entrance to, egress from, and use of any class of buildings by people with disabilities.

- The Appeal Board may grant an order exempting you from compliance with all or part of the construction standards to the extent and on the condition that the Board considers necessary if the Board is satisfied that the exemption will not result in unsafe conditions and that:
 - compliance with the construction standards in the opinion of the Appeal Board:
 - is impractical;
 - is inappropriate; or
 - would, as you the owner has been able to demonstrate, result in undue hardship; or
 - your submitted proposal would provide accessibility for people with disabilities that is equal to or better than that required by the construction standards when considering the complete building.
- The Appeal Board exemption order is specific to the building in question and would not be applicable to other buildings not listed in the exemption application.
- The Appeal Board exemption order would not be in effect where six (6) months has lapsed between the written decision and the issuance of a building permit.
- The Appeal Board exemption order may be cancelled or varied by the Board where:
 - no building permit has been issued by the appropriate local authority; and
 - the Appeal Board believes that the exemption order would result in a loss of public safety or non-compliance with the CC Act.

For Additional Information

If you have questions about the appeal/application process or specific questions about your request, please contact:

Government of Saskatchewan
Building and Technical Standards Branch
Ministry of Government Relations
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REGINA SK S4P 3T2

Phone 306-787-4113

Fax 306-798-4172

Email btstandards@gov.sk.ca

Web saskatchewan.ca/btstandards

Appendix A: Excerpts from *The Construction Codes Act*

Definitions

2 “appeal board” means the Saskatchewan Construction Standards Appeal Board continued pursuant to subsection 27(1);

Execution of orders

26 (1) If a person does not comply with an order made pursuant to section 25, 31 or 39 within the time specified in the order, a building official or a person appointed by the appropriate local authority may enter the land or the building and do, or cause to be done, any acts that the building official or the local authority considers necessary to carry out the order.

(2) The minister or the chief codes administrator may take any action authorized by subsection (1) or subsection 25(5) on behalf of a local authority if:

(a) it is requested by a local authority or considered necessary by the minister; and

(b) the minister considers that inaction by the local authority will result in a danger to public safety.

(3) The minister may certify to the municipal official of the appropriate local authority within which a building is situated the amount of any expenses incurred in carrying out an order pursuant to subsection (2), and the local authority shall immediately pay to the Crown the amount of those expenses.

(4) Any money paid or expended by a local authority pursuant to this section is a debt due and owing by the owner and may be added to the tax payable on the property and collected in the same manner as taxes on the property.

Saskatchewan Construction Standards Appeal Board

27 (1) The Saskatchewan Building and Accessibility Standards Appeal Board is continued as the Saskatchewan Construction Standards Appeal Board.

(2) The appeal board is to consist of not more than 10 persons who are residents of Saskatchewan and are appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may appoint any person to the appeal board who possesses the prescribed qualifications.

(4) Each member of the appeal board:

(a) holds office for a term not exceeding four years that is specified in the appointment and until a successor is appointed; and

(b) is eligible for reappointment but is not eligible to hold the position for more than two consecutive terms.

(5) Subject to subsection 29(2), the appeal board shall:

- (a) hear and determine appeals made pursuant to section 31, 32 or 33;
- (b) advise the minister on matters concerning the administration of this Act and the regulations;
and
- (c) perform any other duties that the minister may direct.

(6) The Lieutenant Governor in Council shall designate on appointment a chairperson and vice-chairperson of the appeal board.

(7) The chairperson, or in the chairperson's absence the vice-chairperson, shall preside at the meetings of the appeal board, or if both the chairperson and vice-chairperson are absent, the chairperson shall designate a member of the appeal board to preside at the meetings of the appeal board.

(8) The chairperson, vice-chairperson or member presiding at a meeting of the appeal board has a casting vote in the event of a tie vote with respect to any issue or question to be determined by the appeal board.

Quorum

28 (1) Three members of the appeal board constitute a quorum.

(2) Subject to the requirement of a quorum, a vacancy in the membership of the appeal board does not impair the power of the remaining members to act.

Procedures re the hearing of appeals

29 (1) Subject to the regulations, the appeal board may establish rules of procedure respecting the hearing of appeals before it and has the powers conferred on a commission by sections 11, 15, 16 and 25 of *The Public Inquiries Act, 2013*.

(2) No appeal will be heard by the appeal board if the chief codes administrator determines the matter in the application:

- (a) is outside of the scope of the appeal board's mandate or area of responsibility;
- (b) would be considered as an alternative solution within the meaning of a Construction Code;
- (c) concerns an order that has already been heard as an appeal pursuant to section 31; or
- (d) for any other reason the chief codes administrator considers the application ineligible.

(3) All decisions of the appeal board:

- (a) may be subject to any conditions that the appeal board considers necessary;
- (b) shall be in writing; and
- (c) shall be served on the owner at the owner's last known address.

(4) After an order or decision of the appeal board has been issued pursuant to sections 31 to 33, the appeal board may rescind or vary the order or decision if, based on new information submitted to it after the issuance of its order or decision, the appeal board believes on reasonable grounds that:

- (a) the application or any information submitted to the appeal board with respect to the application contained false or misleading information; or
- (b) the order or decision of the appeal board would result in a loss of public safety or in non-compliance with this Act.

Appeals re building official orders

31 (1) An owner or an owner's representative may appeal an order made pursuant to section 25 within 15 days after service of the order on the owner or constructor by:

- (a) filing a written notice of the appeal with the chief codes administrator; and
- (b) placing a prescribed deposit with the chief codes administrator.

(2) Within 15 days after all of the things described in clauses (1)(a) and (b) have been done, the chief codes administrator shall:

- (a) inform the appellant of all substantiating information considered necessary to be submitted to continue the appellant's appeal;
- (b) inform the appellant of the date by which all information required in clause (a) must be submitted; and
- (c) inform the appropriate local authority of the appeal.

(3) Subject to subsection (4), if an appellant does not provide the information required by the date indicated in clause (2)(b) or does not provide a reason acceptable to the chief codes administrator why the information was not provided by that date, the appellant's appeal is considered abandoned and any order made pursuant to section 25 remains in force.

(4) If the chief codes administrator is satisfied with the appellant's reason for not providing the information by the date indicated, the chief codes administrator may set a new date by which the information is to be provided.

(5) Within 60 days after the date set in clause (2)(b) or subsection (4), the appeal board shall conduct a hearing, consider the matter and render its decision.

(6) On an appeal of an order made pursuant to subsection 25(1) or (2), the appeal board shall make an order:

- (a) confirming the order being appealed if the appeal board is satisfied that compliance with the order would result in compliance with the construction standards; or
- (b) revoking or varying all or any part of the order being appealed if the appeal board is satisfied that:
 - (i) compliance with the order would not result in compliance with the construction standards; or
 - (ii) a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the construction standards.

(7) On an appeal of an order made pursuant to subsection 25(3), the appeal board shall make an order:

- (a) confirming the order being appealed if the appeal board is satisfied that the building official's order was reasonable in the circumstances;
- (b) revoking the order being appealed if the appeal board is satisfied that the order was not necessary to bring about compliance with the construction standards; or
- (c) varying the order being appealed if, in the opinion of the appeal board, sufficient cause is established.

(8) On an appeal of an order made pursuant to subsection 25(5), the appeal board shall make an order:

- (a) confirming the order being appealed if the appeal board is satisfied that an unsafe condition exists and that the steps set out in the order are necessary to eliminate the unsafe condition;
- (b) revoking the order being appealed if the appeal board is satisfied that:
 - (i) an unsafe condition does not exist; or
 - (ii) the steps set out in the order are not necessary to eliminate the unsafe condition; or
- (c) varying the order being appealed if, in the opinion of the appeal board, sufficient cause is established.

(9) An appeal pursuant to this section does not operate as a stay of the order or decision being appealed unless the appeal board, on an application by the appellant, decides otherwise.

Application re interpretation order

32 (1) Before a permit is issued by the appropriate local authority, an owner, a local authority, a building official or a constructor may apply to the appeal board for an order to determine an interpretation of any provision of a Construction Code by:

- (a) filing written notice of the application with the chief codes administrator;
- (b) placing a prescribed deposit with the chief codes administrator; and
- (c) submitting to the chief codes administrator all substantiating information considered necessary by the chief codes administrator.

(2) Subject to subsections (3) and (4), within 90 days after all things described in clauses (1)(a) to (c) have been done, the appeal board shall consider the matter and render its decision.

(3) The appeal board is not required to hold a public hearing on the matter if the appeal board believes it has sufficient information to make a decision.

(4) In the case of an application by an owner or constructor, the local authority must be provided an opportunity to provide a response to the owner or constructor's application before the appeal board renders its decision.

(5) The appeal board may grant an order determining how any requirement of a Construction Code is to be applied or interpreted as it pertains to the building specified in the application made in subsection (1).

(6) An order made pursuant to subsection (5) does not apply to any permit that is applied for more than 6 months after the appeal board's written decision is dated or for any building that was not listed as part of the application made in clause (1)(a) or after the coming into force of a new edition of a Construction Code.

(7) An order made pursuant to subsection (5) may be rescinded or varied by the appeal board if:

(a) a permit has not been issued by the appropriate local authority; and

(b) the appeal board believes on reasonable grounds that the order would result in a loss of public safety or in non-compliance with this Act.

(8) An order made pursuant to subsection (5) is not binding on any decision made by the appeal board at a later date or any subsequent appeal.

Application re exemption order

33 (1) Before a permit is issued by the appropriate local authority, an owner of a building or proposed building may apply to the appeal board for an order exempting the owner from compliance with all or part of the construction standards mentioned in clause 5(1)(b) by:

(a) filing a written notice of the application with the chief codes administrator;

(b) placing a prescribed deposit with the chief codes administrator; and

(c) submitting to the chief codes administrator all substantiating information considered necessary by the chief codes administrator.

(2) Subject to subsection (3), within 90 days after all of the things described in clauses (1)(a) to (c) have been done, the appeal board shall consider the matter and render its decision.

(3) The appeal board is not required to hold a public hearing on the matter if the appeal board believes it has sufficient information to make a decision.

(4) The appeal board may grant an order exempting the owner of a building or proposed building from compliance with all or any part of the construction standards mentioned in clause 5(1)(b) to the extent and on the conditions that the appeal board considers necessary if the appeal board is satisfied that the exemption will not result in unsafe conditions and that:

(a) compliance with the construction standards mentioned in clause 5(1)(b), in the opinion of the appeal board:

(i) is impractical;

(ii) is inappropriate; or

(iii) would, as the owner has been able to demonstrate, result in undue hardship; or

(b) a proposal submitted by the owner will provide accessibility for people with disabilities that is equal to or better than that required or intended by the construction standards mentioned in clause 5(1)(b) when considering the building as a whole.

(5) An order made pursuant to subsection (4) does not apply to any permit that is applied for more than 6 months after the appeal board's written decision is dated or for any building that was not listed as part of the application made in clause (1)(a) or after the coming into force of a new edition of a Construction Code.

- (6) An order made pursuant to subsection (4) may be rescinded or varied by the appeal board if:
- (a) a permit has not been issued by the appropriate local authority; and
 - (b) the appeal board believes on reasonable grounds that the order would result in a loss of public safety or in non-compliance with this Act.

Appeal to judge

- 34** (1) Within 30 days after service of an order of the appeal board pursuant to section 31, 32 or 33 an owner, a building official, a constructor or a local authority aggrieved by an order made by the appeal board may appeal the order to a judge of the court on a question of law alone.
- (2) Unless otherwise ordered by a judge of the court, an appeal pursuant to subsection (1) does not operate as a stay of the decision of the appeal board.
- (3) The decision of a judge of the court pursuant to subsection (1) is final.

Offences and penalties

- 39** (1) No person shall:
- (a) contravene this Act, the regulations or a bylaw passed pursuant to this Act;
 - (b) fail to comply with an order made pursuant to section 25 or 31;
 - (c) fail to comply with the terms and conditions of a permit or licence issued pursuant to this Act; or
 - (d) obstruct or hinder a building official or a person accompanying the building official in the performance of the building official's duties pursuant to this Act or the regulations.
- (2) Every person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine of not more than \$25,000 and, in the case of a continuing offence, to a further fine of not more than \$5,000 for each day or part of a day during which the offence continues; and
 - (b) in the case of a corporation, to a fine of not more than \$200,000 and, in the case of a continuing offence, to a further fine of not more than \$20,000 for each day or part of a day during which the offence continues.
- (3) If a person is found guilty of contravening any provision of subsection (1), the convicting judge may, in addition to any other penalty imposed, order the person to do any act or work, within the time specified by the judge in the order.
- (4) A person to whom an order is given pursuant to subsection (3) who fails to comply with the decision, order or directive within the specified period is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine of not more than \$5,000 for each day during which the non-compliance continues; and
 - (b) in the case of a corporation, to a fine of not more than \$10,000 for each day during which the non-compliance continues.

(5) No prosecution for an offence pursuant to this Act is to be commenced after 2 years from the date on which the offence is alleged to have been committed or, in the case of a continuing offence, the last date on which the offence was committed.

Court order

40 (1) The minister or a local authority, as the case may be, may apply to a judge of the court for an order described in subsection (3) if a person:

(a) fails to comply with an order directed to that person pursuant to section 25, 31 or 39 within the time specified in the order;

(b) refuses to allow a building official or a person appointed by the local authority to carry out pursuant to section 26 an order made pursuant to section 25, 31 or 39;

(c) interferes with or attempts to interfere with the carrying out of an order made pursuant to section 25, 31 or 39; or

(d) demonstrates the intent to contravene an order made pursuant to section 25, 31 or 39.

(2) An application may be made pursuant to subsection (1) whether or not the person has been prosecuted.

(3) On an application pursuant to subsection (1), a judge of the court may grant an order requiring the person:

(a) to comply with the order made pursuant to section 25, 31 or 39;

(b) to refrain from interfering in any manner with the carrying out of an order made pursuant to section 25, 31 or 39; or

(c) to refrain from contravening an order made pursuant to section 25, 31 or 39.

Appendix B: Excerpts from *The Building Code Regulations*

Membership

32(1) The appeal board may include the following members:

- (a) one member who represents persons with disabilities;
- (b) one member who represents building officials;
- (c) two members who each represent one of the following groups:
 - (i) engineers;
 - (ii) architects;
 - (iii) interior designers;
 - (iv) architect technologists;
 - (v) drafting technologists;
 - (vi) applied science technologists and technicians;
- (d) two members who each represent one of the following groups:
 - (i) cities;
 - (ii) local authorities;
 - (iii) administrators;
 - (iv) municipal associations;
- (e) one member who represents home builder associations, construction associations or construction safety associations;
- (f) three qualified persons appointed by the minister.

(2) For the purposes of subsection 27(3) of the Act, to be eligible for appointment to the appeal board, a person must, in the opinion of the Lieutenant Governor in Council, possess the following qualifications:

- (a) an ability to analyse issues, impartially consider arguments and render decisions regarding appeals and applications to the appeal board;
- (b) good communication and interpersonal skills;
- (c) a familiarity with the appeal board's jurisdiction and the role of the appeal board; and
- (d) technical or substantive knowledge and experience that will assist the board in determining matters within its jurisdiction.

(3) Subject to subsection (4), no member of the board who has an interest in any matter before the appeal board, whether directly or indirectly or as a financial interest, shall participate in an appeal pursuant to section 31 of the Act or an application to the appeal board pursuant to section 32 or 33 of the Act.

(4) The chairperson of the appeal board may make a decision as to whether any member of the appeal board has a financial interest or other interest for the purposes of subsection (3), and the decision of the chairperson is binding and conclusive on the person.

(5) If, in the opinion of the chairperson of the appeal board, a member of the appeal board acts in contravention of subsection (3):

(a) that person's membership on the appeal board is immediately terminated and that person is not eligible for reappointment to the appeal board; and

(b) a decision of the appeal board in which the member participated in contravention of subsection (3) is not automatically invalidated, but the appeal board shall review the decision and may, within 3 months after the date of the decision, declare the decision to be void.

(6) If, in the opinion of the vice-chairperson of the appeal board, the chairperson of the appeal board acts in contravention of subsection (3):

(a) that chairperson's membership on the appeal board is immediately terminated and that person is not eligible for reappointment to the appeal board; and

(b) a decision of the appeal board in which the chairperson participated in contravention of subsection (3) is not automatically invalidated, but the appeal board shall review the decision and may, within 3 months after the date of the decision, declare the decision to be void.

Appeal board deposits

33 (1) The deposit amounts payable to the ministry are set out in Table 1 of Part 3 of the Appendix for:

(a) an appeal of a building official order pursuant to clause 31(1)(b) of the Act;

(b) an interpretation of a provision of a Construction Code pursuant to clause 32(1)(b) of the Act;
or

(c) an exemption from construction standards pursuant to clause 33(1)(b) of the Act.

(2) Subject to subsection (4), if the deposit required pursuant to clause (1)(a) is not paid within the period required by subsection 31(1) of the Act, the appeal is deemed to be dismissed and any further right of appeal is extinguished.

(3) Subject to subsection (4), the appeal board shall not hear an application pursuant to section 32 or 33 of the Act before the applicant provides the deposit required pursuant to clause (1)(b) or (1)(c), as the case may be.

(4) Subject to subsections (5) and (6), the chief codes administrator may waive any deposit mentioned in this section as part of an application to the appeal board if an applicant is able to demonstrate to the chief codes administrator's satisfaction that the applicant is unable to pay a deposit as a result of exceptional or unusual events or circumstances affecting the applicant.

(5) The chief codes administrator may require an applicant to provide, within the period required by the chief codes administrator, evidence that is reasonably required in the circumstances to demonstrate to the satisfaction of the chief codes administrator that the applicant is unable to pay a deposit.

(6) If an applicant fails to provide evidence at the request of the chief codes administrator in accordance with subsection (5), the chief codes administrator may refuse to waive the deposit for the applicant.

(7) The chief codes administrator may cancel a waiver of a deposit granted pursuant to subsection (4) if the chief codes administrator determines that:

(a) the evidence provided by the applicant in support of the applicant's application for a waiver of a deposit was incorrect with respect to a requirement affecting the applicant's eligibility for a waiver;

(b) the waiver was given in error; or

(c) there has been any other material change in circumstances that, in the opinion of the chief codes administrator, causes the applicant to no longer meet the requirements of subsection (4).

(8) As part of its decision, the appeal board may authorize a refund of the deposit paid pursuant to clause (1)(a), or portion of it, if the appeal board considers it appropriate to do so.

Failure to appear

34 (1) If notice is given of a hearing pursuant to section 31, 32 or 33 of the Act and a party other than the applicant fails to attend that hearing, the appeal board may hear and decide the matter in the absence of that party.

(2) If notice is given of a hearing pursuant to section 31, 32 or 33 of the Act and an applicant fails to attend that hearing, the appeal board may dismiss the matter without conducting a hearing.

Publication of appeal board decisions

35 (1) Subject to subsection (2), a summary of all appeal board decisions may be published in any manner the minister considers appropriate, including by publishing them on the ministry's website.

(2) Subject to subsection (3), any information that is, in the opinion of the chief codes administrator, third party identifying information must be severed before the summary of the appeal board's decision is published.

(3) A summary of an appeal board's decision may be withheld from publication if the chief codes administrator reasonably believes that third party identifying information cannot be severed from the decision.