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CHAPTER 1503

Means of Appeal

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CROSS REFERENCES

UFC F-112.1 through F-112.10 replaced by this Chapter 1503

1503.01 BOARD OF APPEALS

A Board of Appeals shall be established with members appointed pursuant to Section 1503.02 which shall have jurisdiction with the geographical boundaries of the City of Kettering and such Board shall follow all of the procedures and have all the powers and duties provided in Section 1503.02 through Section 1503.10.

1503.02 BOARD

There is hereby created the Residential Board of Appeals, hereinafter referred to as the Board. The Board shall be established and operated by Montgomery County. The Board shall have power to promulgate rules and regulations interpreting the provisions of the Unified Fire Code and implementing its administration and intent. The Board shall consist of five members. Each member shall be appointed for a term of five (5) years, or until his successor is appointed, except that appointments to fill vacancies arising in mid-term shall be only for the unexpired portion of such terms. Original appointments shall be for terms of one, two, three, four and five years.

1503.03 QUALIFICATION

The Board shall consist of five (5) members as follows:

1. one fire official;
2. one builder;
3. one architect or engineer, registered in Ohio;

4. one attorney, admitted to the Ohio Bar;
5. one building official.

The fire official shall be appointed to the Board by the Southwest Ohio Fire Safety Council. The builder shall be appointed to the Board by the Home Builders Association. The architect or engineer shall be appointed to the Board by, in turn, the City of Dayton, the City of Kettering, or Montgomery County by alphabetical order. The attorney shall be appointed to the Board by other jurisdictions which have adopted this code, in turn, by alphabetical order. The building official shall be appointed to the Board by the Miami Valley Building Official's Association. Members of the Board shall have a minimum of six (6) years of building design, construction inspection/code enforcement experience. The attorney shall have a minimum of six (6) years legal experience.

1503.04 CHAIRMAN AND SECRETARY

The Board shall select one of its members to serve as its Chairman, and one as a Vice-Chairman and shall appoint a person to act as secretary for the Board and to keep a detailed record of all Board proceedings.

1503.05 DISQUALIFICATIONS / ETHICS

No member of the Board shall pass on any questions involving work on which he or his employer is or has been engaged or involved as a contractor or material dealer or superintendent, or for which he or his employer has prepared plans or specifications, or in which he has any personal or financial interest whatever. All Board members actions shall be in compliance with State of Ohio ethics laws.

1503.06 MEETINGS

The Board shall meet within 30 days after the filing of any appeal or request for action with the Secretary of the Board, and also periodically if the volume of its work so warrants.

1503.07 REPRESENTATION

Each appellant or applicant and the Code Official, and any other person whose interests may be affected by the appeal, shall be given a fair opportunity to be heard orally, in person or by counsel, and to present written argument.

1503.08 APPLICATION FOR APPEAL OR ACTION

Any person adversely affected by the Unified Fire Code Articles and Sections F-109.1, F-109.3.1, Article 2, F-301.4, F-304.0, F-305.0, F-306.0, F-307.2, F-307.3, F-308.1, F-308.3, F-309.0, F-312.2, F-312.6, F-313.0, except for F-313.12, F-315.2, F-316.0, F-318.0, article 4, F-501.3, F-501.4, F-501.4.1, F-502.2, F-502.2.1, F-502.2.2, F-502.3, F-510.0, F-516.4, F-517.2, F-602.2, F-603.2, Article 7, Article 8 except for F-801.4, F-802.4, F-802.5, F-803.1.1, F-803.2, Article 9 except for F-901.2, F-902.5, F-902.7.5, F-902.9, F-902.10.2, F-903.6.1, F-903.6.2, and F-906.6.3, Article 10 except for F-1001.2, Article 11 except for F-1101.5, F-1101.6, Article 12, Article 13 except for F-1302.1, Article 14 except for F-1401.2, F-1401.3, F-1401.3.1, Article 15 except for F-1501.3, F-1501.4, Article 16 except for F-1601.4, F-1601.5, F-1601.5.1, F-1601.5.2, F-1603.2, Article 17 except for F-1700.3, F-1700.4, F-1700.4.1, F-1701.1, F-1703.0, article 18 except for F-1802.6, F-1802.8, F-1806.2.3, Article 19 except for F-1901.1, F-1901.2, Article 20 except for F-2001.3, Article 21 except for F-2102.2, F-2102.4, F-2102.5, F-2103.10, F-2103.12, F-2103.16, F-2103.17, F-2107.3.1, Article 22, Article 23, Article 24, Article 25 except for F-2502.2, Article 26 except for F-2602.5, F-2602.5.2, F-2602.5.3, F-

2602.6, F-2603.13, F-2605.3, F-2606.4, F-2606.6, Article 27 except for F-2701.4, Article 28 except for F-2801.4, F-2801.8, F-2804.2, F-2808.2, Article 29 except for F-2900.2, F-2901.6, F-2905.2, F-2909.0 Article 30, Article 31, Article 32, Article 33 except for F-3301.4, F-3301.5, F-3303.7, Article 34, except for F-3400.1.1 and Standards 3.08, 3.13, 3.19 except Section 3.19.3, 4.04, 518.0, 17.0, 28.0, and 30.0 may appeal to the Residential Board of Appeals a decision of the Code Official refusing to grant a permit or to permit the use of a particular material and/or equipment or method of construction in a proposed structure, provided such appeal is filed within 15 days of date of receipt of written decision from the Code Official. The appeal must include proposed alternatives, modifications, or substitutions, complete plans of structure, other pertinent information, and payment of fees. Decisions or orders relating to matters not appealable to said board shall constitute final administrative orders appealable as provided by Chapter 2506 of the Ohio Revised Code.

The appeal shall be based on one or both of the following grounds, to wit:

- A. That the interpretation, filing, or order is erroneous or constitutes an erroneous application of the particular provisions of the City of Kettering Codified Ordinances and/or the "Unified Fire Code" or related laws and ordinances involved, or is otherwise contrary to law.
- B. That a modified application or alternative arrangement is available and feasible whereby the strict application of a particular provision or provisions may be modified with alternatives without defeating the public safety, health and general welfare, purpose and intent of the provisions of the Unified Fire Code and adopted associated Standards.

A hearing shall be held within a reasonable time not to exceed 30 days following receipt of the appeal by the Secretary of the Board. The Board shall provide the appellant with written notice of its determination within 30 days after the hearing.

1503.08.1 FEE FOR APPEAL OR ACTION

Each applicant for an appeal to the Board from an action of the Code Official shall be accompanied by a fee of \$100.00. Fees shall be deposited in accordance with applicable laws and shall be used to defray the normal expense of the Board including the payment for time of the secretary, payment for the preparation of transcript hearings by a court reporter when deemed necessary, or such similar expenses as the Board may authorize.

1503.09 APPEAL AND ACTION

The Board shall review and decide appeals from rulings and actions of the Code Official in administering the Codes, and shall hear and decide applications for modifications, deviations, or approved rules.

1503.09.01 QUORUM

A majority of the members of the Board shall constitute a quorum. A majority of the quorum shall be necessary to make a decision on an appeal, modification, deviation or an approved rule.

1503.10 RE-HEARING

The Board shall, upon application of either the appellant or Code Official, grant re-hearing before the Board in any case where new evidence is presented which in the opinion of the Chairman

may justify such re-hearing. Such re-hearing shall not serve to stop execution of the previous decision of the Board pending the re-hearing except by special action of the Board so directing.