



# CITY AND COUNTY OF DENVER

## DEVELOPMENT SERVICES

**BUILDING**  
Permit & Inspection Services  
201 West Colfax, Dept. 205  
Denver, CO 80202  
720-865-2705  
<http://www.denvergov.org>

### BOARD OF APPEAL APPLICATION

**PLEASE TYPE OR PRINT USING BLACK INK**

CASE NO. \_\_\_\_\_  
(FOR OFFICE USE ONLY)

Name of Appellant : \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

Address of Real Estate Involved: \_\_\_\_\_

Names and Addresses of All Owners of the Real Estate Involved: \_\_\_\_\_

**Type of Ownership:**

- Condominium (If request affects area owned in common, the officers of the Condominium Association Board must be authorized, by the rules of the Condominium Association, to act on behalf of the owners and must notify all owners of the property of the request for a variance and the date of the hearing.)
- Individual, Joint, or Common (All owners must be present or sign attached **LIMITED POWER OF ATTORNEY**)
- General Partnership (A partner must be present or sign authorization)
- Corporation (Attached **LIMITED POWER OF ATTORNEY** must be signed by President or Vice-President)

**Type of Permit (if applicable):**

- Homeowner Type: \_\_\_\_\_
- Contractor Type: \_\_\_\_\_

Appeal filed as a result of (check one):

Written Order   
  Plan Correction Notice   
  New Method/Product   
  Opinion of a Building Official  
 Date: \_\_\_\_\_   
 Date: \_\_\_\_\_   
 Date: \_\_\_\_\_   
 Date: \_\_\_\_\_

**State your request with particularity. A copy of the plan correction notice, order or letter MUST be attached to this application. Section 109 of the Denver Building Code requires that appeals must be filed within thirty (30) days of the date of the notice of decision or order from the Building Department. A check in the amount of \$250.00 must accompany this application, or \$500.00 if a SPECIAL meeting is requested.**

#### BRIEFLY STATE REASON FOR APPEAL. PLEASE READ SECTIONS BELOW AND ATTACHED INFORMATION FOR APPELLANTS

Financial Hardship  Code Interpretation  New Materials or Methods

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Signature: \_\_\_\_\_ (Check One)

Print Name: \_\_\_\_\_  Appellant  
 Agent

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
Number and Street

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_



**CITY & COUNTY OF DENVER - - DEVELOPMENT SERVICES  
BUILDING DEPARTMENT  
BOARD OF APPEALS**

**INFORMATION FOR APPELLANTS**

**FILING AN APPEAL:**

1. The provisions regarding the establishment and operation of the Board of Appeals are set forth in Sections 108 - 110 of the Denver Building Code.
2. Appeals to the Board of Appeals may be made from any written order, plan review rejection, written action, or determination of the Building Department.
3. An appeal must be filed within thirty (30) days from the date of the notice of the decision or order.
4. An appeal must be filed on the form provided by the Secretary to the Board, and the filing fee set by the code must be paid. (\$250.00 for a regular appeal; \$500.00 for a SPECIAL appeal)
5. The appeal form must be completed, and **must contain sufficient information for the Board to understand the order or decision being appealed**, the basis for the appeal, and reasons why the appeal should be granted.

**NOTICE OF HEARING:**

1. You will be notified by certified mail of the exact time and place of the hearing on your appeal. Most meetings are held on the 4<sup>th</sup> Thursday morning of each month, starting at 8:30 a.m. (there may be an exception, called at the discretion of the Board). November and December meetings are usually held on the 3<sup>rd</sup> Thursday.
2. Please appear promptly at the time and place given in your notice. Failure to appear on time may result in denial of your appeal without a hearing.
3. Hearings of the Board of Appeals are open to the public.

**LIMITED POWER OF ATTORNEY:**

1. If the appeal involves a structure or real estate, the owner of the property **MUST** be present or **MUST** give a Limited Power of Attorney to the person presenting the appeal. **PLEASE USE THE FORM THAT IS ATTACHED TO THIS BOARD OF APPEALS APPLICATION.**

Read the appeal form for more information regarding the requirement for the Limited Power Of Attorney.

2. If the appeal affects a condominium and the request affects areas outside of the air space owned, the officers of the Condominium Association Board must be authorized, by the rules of the Condominium Association, to act on behalf of the owners and must notify all owners of the property of the request for a variance and the date of the hearing. Exceptions may be considered on a case-by-case basis.
3. IF THERE IS NO LIMITED POWER OF ATTORNEY, THE APPEAL REQUEST MAY BE AUTOMATICALLY DENIED.

**POWERS OF THE BOARD AND VOTING PROCEDURE:**

1. The Board has the authority to grant relief to an Appellant under the following circumstances:
  - To grant a variance where compliance with the strict letter of the code, or a Building Department action would impose practical difficulties or unnecessary hardship due to exceptional and extraordinary circumstances.
  - To provide administrative review where there is an error in any order, requirement, or decision of the Building Department in the enforcement of the code.
  - To reverse the decision of the Building Department where new materials or methods are now available that were not available when the code was written, use of such materials or methods has been denied by the Building Department and the Appellant has obtained an approval or certified test results from an approved testing agency, which approval or test results are deemed satisfactory to the Board.

You must explain at the hearing how your appeal fits into one of these categories and present evidence as to the error, hardship, etc.

2. The Board will consider requested variances on a case-by-case basis for each address or real estate property involved.
3. The Board has the right to discuss the case and vote in executive session with only the regular and alternate Board members, the Fire Department's non-voting member, and the Board's secretary present.
4. The concurring vote of three (3) members of the Board, or a majority of those members present and voting, whichever is greater, is required to grant an appeal. If the request is heard by fewer than five (5) voting members and a vote is tied or indecisive, the absent member(s) will listen to the tape of the hearing, and will cast the deciding vote(s) at the next meeting of the Board.
5. The Board may:
  - Grant your appeal.
  - Grant your appeal with conditions (e.g. coming to an agreement with the Building Department).
  - Deny your appeal. This usually results in the appellant's responsibility to comply with the original order unless a mutual agreement and solution has been achieved during the hearing between the Appellant and the City.
  - Grant you additional time to comply. This is usually to allow time to present additional information if the Board requests it, or to correct procedural or administrative deficiencies such as lack of Limited Power of Attorney, City representative not present, appellant special circumstances, etc.
  - Require that its decision be filed and recorded in the real estate records of the Clerk & Recorder's Office thus alerting all future buyers of the property of the issue on which the Appeal is based and the resolution.
  - Stipulate that a variance will expire upon certain occurrences such as the sale, leasing, or releasing of the property.
6. You will be notified of the Board's decision either at the time of the vote, or by mail.
7. In extraordinary cases the Board may grant you a right to re-appeal, and may limit exercise of that right to a special meeting only to avoid abuse of the re-appeal as a delaying tactic.
8. You have the right to appeal decisions of the Board to the appropriate court, as provided by Colorado law.

### **HEARING PROCEDURE:**

1. Bring a form of photo-identification.
2. At the hearing, the Building Department or other affected City Department will first describe the code violation and present the position of the Department. You will then have the opportunity to explain why your appeal should be granted. You may testify on your own behalf, present witnesses, and present any documents you believe are relevant. Building plans, photos, and information on the specific work being done, or product in question, are helpful to the Board. You may question the Building Department or other Department employees. The City's representatives, and the members of the Board, may ask you, and any witnesses, questions regarding the appeal. Both you and the City will be given the opportunity to present evidence rebutting the other's position.
3. If you plan to present documents or other exhibits at the hearing, please follow the instructions of the section immediately below. All material presented as exhibits will be kept in the official file and not returned.
4. An attorney may represent you, if you wish. An attorney is not required, and most Appellants represent themselves. The Building Department or other affected City Department is normally represented by the City Attorney's Office, and by employees of the Building Department or other Department, who are familiar with your case.
5. Your appeal will be heard by three (3) or more Board members. In addition, a representative of the Denver Fire Department is a non-voting member of the Board, advising the Board on safety issues. Alternate Board members may also be present, and may also ask questions and vote on your appeal.

After a time of deliberation (you may be asked to leave the room briefly if the Board goes into Executive Session), the Board will present its determination.

### **HEARING RULES:**

The City has promulgated rules for the conduct of hearings before the Board. A copy of these rules will be provided to you upon request at the time that you are provided with this Application. These rules govern certain aspects of your appeal to the Board, including but not limited to the presentation of written documents or pictures, referred to as exhibits, and the notice and other documentation required when a condominium is involved in an appeal. Please read and follow these rules in the preparation of your appeal.

### **PROPOSED EXHIBITS:**

1. Exhibits which consist of third-party reports, case summaries over two (2) typewritten pages in length, or legal memoranda, proposed to be presented to the Board in conjunction with an Appeal shall be provided by the Appellant to the Secretary of the Board no later than fifteen (15) days prior to the scheduled hearing date. Each such document proposed as an exhibit by the Appellant shall be legibly copied, clipped together if necessary and marked with the numerical designation "Appellant's Exhibit 1" et. seq. Such exhibit submittal shall contain a valid return address for the Appellant.
2. The Secretary of the Board, upon receipt of a timely submission of exhibit(s), shall transmit one (1) copy of each exhibit to the City Attorney and to each member of the Board. All other Appellant exhibits may be provided at the time of hearing. Such exhibits should number at least 10 copies.
3. If the City Attorney desires to submit exhibit(s) of the enumerated types on behalf of the City, he or she shall provide such exhibit(s) to the Secretary of the Board who shall mail a copy of each exhibit by U.S. mail, postage prepaid, to the address of the Appellant provided, no later than seven (7) days prior to the scheduled hearing date. The Secretary of the Board shall also transmit one (1) copy of each City exhibit to each member of the Board. All other City exhibits may be provided at the time of hearing.
4. In the event that such enumerated types of exhibits are not timely provided to the Secretary of the Board by an appellant or by the City, as described above, the Board may review such exhibits in executive session, or may continue the case for review of such exhibits.

### **CONDOMINIUM ASSOCIATIONS**

1. Where any property before the Board is held in common ownership by the members of a condominium association or other entity established pursuant to the Colorado Condominium Act., (C.R.S. §38-33-1-1. et seq.) notice of any appeal must be given to all persons holding an undivided condominium ownership interest in such property. Notice to such persons may be given by the Appellant by mailing the notice to any condominium owner by first class mail or by personally serving the notice upon any condominium owner not later than ten (10) days prior to the hearing. Evidence of service shall be shown at the hearing.
2. The officers of the Condominium Association Board must be authorized, by the rules of the condominium association, to act on behalf of the owners, and must notify all owners of the property of the request for a variance and the date of the hearing.
3. Notwithstanding the provisions of Subsection 1 above, if any appeal before the Board pertains only to a single condominium unit or less than all of the units, and does not pertain to property owned in common by the members of the condominium association, then such appeal may be prosecuted in the name(s) of the owner(s) of said condominium unit(s) and notice of such appeal does not need to be given to all condominium owners. Notice served upon a principal officer or board member of the condominium association will be deemed sufficient.