

**Fire Appeals Board
August 5, 2025, Meeting
City of Huber Heights**

- I. Terry Walton called the meeting to order at approximately 3:00 p.m.
- II. Roll call - Present were Russell Bergman, Chief Keith Knisley, and Terry Walton.

Staff present – Aaron Sorrell, Assistant City Manager and Jordan Staley, Assistant Law Director.
- III. **Oath of Office given by Jordan Staley** – Russell Bergman, Chief Keith Knisley, and Terry Walton.
- IV. **Election of Chairperson**

Chief Knisley moved to nominate Terry Walton as Chair. Roll call showed: YEAS: Mr. Bergman, Chief Knisley, and Mr. Walton. NAYS: None. Motion to approve carried 3-0.
- V. **Adopt Rules and Procedures**

Chief Knisley moved to adopt The Rules and Procedures.

Seconded by Mr. Walton. Roll call showed: YEAS: Mr. Bergman, Chief Knisley, and Mr. Walton. NAYS: None. Motion to approve carried 3-0.
- VI. **Swearing of Witnesses** Mr. Walton explained the proceedings of tonight's meeting and administered the sworn oath to all persons wishing to speak or give testimony regarding items on the agenda. All persons present responded in the affirmative
- VII. **New Business**
 1. **Case FA 25-01 – Appeal of outstanding violations for property located at 5150 Brandt Pike.**

Aaron Sorrell stated that the Huber Heights Fire Department obtained an administrative warrant to do an annual inspection on 4/22/25. The inspection occurred on 4/23/25, with assistance from Montgomery County Office of Building Regulations and Huber Heights Police Department. Inspection found four (4) fire code violations, and the building deemed unsafe by Montgomery County. Appellant was given 30 days to correct fire code violations before a scheduled 5/29/25 re-inspection. 5/29/25 reinspection found seven (7) fire code violations; building remained unrepaired. 7/2/25 Fire official issued a notice of violation outlining the seven fire code violations.
Mr. Sorrell then stated that any person aggrieved by a decision by the Fire Official made under provision of the Ohio Fire Code may appeal the decision as set forth in Section 108 of the Ohio Fire Code.

Planning Commission Meeting

March 11, 2025

It is clear from the inspection reports and photographs that the violations outlined in the 7/2/25 Violation Notice were present and constituted a violation of the Fire Code and Ohio Building Code. The appellant and building owner have repeatedly demonstrated an unwillingness to cooperate with the Fire Department. It is staff's opinion that the Fire Official did not err in the interpretation of the application of the Fire Code, and this appeal is without merit and should be denied.

Karen Bishnow said there is no unwillingness to cooperate, they have been in communication with Don Millard (Zoning Manager). May 2024 was last inspection and every year we've passed. The waving conditions on the roof are on the façade not the roof. Not denying building needs repaired. Oct. and Nov. Mr. Millard condemns property involving Montgomery County and Mr. Baumgartner. Doesn't see the urgency, not notified of warrant, doesn't know procedure to this appeal. Calls were unreturned, emails indicate communication. We do not have combustible materials on the property. Drone shows no damage to roof, and they are willing to do repairs, but this went from 0 to 100. Has proof from the post office certified mail never reached them.

Mark Bishnow stated he didn't know how much the city was involved with the 5150 building, nothing outstanding when the Bomb Squad arrived. He let us know he couldn't get there at that time for the inspection to go on in. He went 3 times to Montgomery County to see what needs to be done. The more questions he asked, the less information he received. Waited 1 hour and ½ for Frank, filled out paperwork right then. Trying to be proactive. They knew he wasn't going to be there at last inspection. Wants time to address issues, no one is coming and going from the property. Give him time to correct the problems. His plan for the 5150 is to turn into Food Court. Aaron on Do not Contact list, letters from Zoning 3 times a week, been here since 1979. Has pictures (attached) taken of work that has been done before last inspection on 5/27/25 and 5/28/25.

Jordan Staley said we can't authenticate when photos were taken, they aren't date stamped.

Karen Bishnow reiterated there are no combustibles on the property.

Aaron Sorrell verified grounds of appeal, you are stating these conditions not present.

Karen Bishnow said inspection was not due until May, appealing the \$100 a day penalty.

Doug Baumgartner, Fire Inspector stated numerous emails, numerous attempts to contact. Voicemail was full, he did receive 1 callback.
Combustible material – numerous
Fire wall, fire barrier – ceiling tiles.
False ceiling at about 8 ft. level
Items stacked up right inside door and throughout the building.
Ceiling tiles missing
Address numbers are missing and unreadable.
Building originally secured with boards over windows and doors and then it wasn't anymore.

Assistant Chief Stiefel stated that there was communication back on 7/11/25 but didn't show pictures at that meeting. We need evidence that repairs are being made, never giving any. We showed up at 2:30, couldn't get into the building, administrative search warrant then to get in the building.

Chief Knisley stated any solid item that can burn is combustible. Assist Chief Stiefel stated there are several remnants of the hardware store, a lot of obstructions piled up. Inside is a mess.

Chief Knisley asked who said the building was unsafe and Assist Chief Stiefel answered Montgomery County. Chief Knisley then asked who scheduled the 5/29/25 date and Assistant Chief Stiefel said that date met the 30-day mark. Notice received on 5/28/25 to cancel the 5/29/25 date.

Doug Baumgartner said he was accused of being sneaky, but the inspection was 11 months late, not 1 month early. Sent many pictures in my email.

David Gibson from Montgomery County said 2 violations posted on 10/30/24, roof damage and unsafe wiring. On 4/23/25 contacted by HHFD saying they couldn't do a thorough inspection, access limited. Roof was compromised, wall bows outward, major settling, lack of ingress or egress, and unsanitary. Notice posted to front door.

Russell Bergman asked about certified mail not being received and the Bishnows stated no. Also, those emails they received had no attachments and no pictures.

Aaron Sorrell said Building code violations are separate from the Fire code violations.

Jordan Staley asked if they received a copy of order from HHFD? Yes

Karen Bishnow said 4/29/25 email missing second page.

Jordan Staley asked Doug Baumgartner about 4/29/25.

1st violation still many materials stored in disarray.

Stacked within 2 ft of ceiling tiles.

Address numbers

Fire walls, fire barriers.

Numerous ceiling tiles missing

Notice posted on the Brandt Pike side.

Reinspection 5/29/25 looking through windows, professional opinion still in violation.

Chief Knisley 5/8/24 not able to get access.

Karen Bishnow 5/24 sent email about roof stating he might be overstepping his bounds.

Mark Bishnow combustible materials everywhere in the city, he wants to sale the 5150 or find a use for it.

Planning Commission Meeting

March 11, 2025

Jordan Staley asked Doug Baumgartner if the conditions of the property and photos from 5/29/25 inspection report accurately describe property and Doug said yes.

Action

Chief Knisley moved to deny this appeal of outstanding violations for property located at 5150 Brandt Pike (FA 25-01) in accordance with the recommendation of Staff's Memorandum dated July 31, 2025.

Seconded by Mr. Bergman. Roll call showed: YEAS: Chief Knisley, Mr. Bergman, and Mr. Walton. NAYS: None. Motion to deny carried 3-0.

Mr. Sorrell encouraged the Bishnows to maintain constant communication with the HHFD, running out of time and patience.

VIII. Additional Business

None.

IX. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at approximately 4:07 p.m.

Terry Walton, Chair

Date

Geri Hoskins, Administrative Assistant

Date

**RULES AND PROCEDURES
OF THE
FIRE APPEALS BOARD
OF
THE CITY OF HUBER HEIGHTS, OHIO**

TABLE OF CONTENTS

Rule I - General Provisions..... 1
Section 1.01 Adoption of Rules 1
Section 1.02 Rules of the Board 1
Section 1.03 Rules of the Board to be Available to the Public..... 1
Section 1.04 Office of the Board 1
Section 1.05 City Attorney Opinions Binding on the Board 1
Rule II - Organization 1
Section 2.01 Membership 1
Section 2.02 Election of Chairperson 2
Rule III - Meetings and Attendance..... 2
Section 3.01 Regular Meetings 2
Section 3.02 Attendance 2
Rule IV - Conduct of Meetings..... 2
Section 4.01 Open Meetings 2
Section 4.02 Quorum 2
Section 4.03 Voting 2
Section 4.04 Action by the Board 3
Section 4.05 Minutes 3
Rule V - Duties of the Board 3
Section 5.01 Appeals of the Ohio Fire Code 3
Section 5.02 Other Duties 3
Rule VI - Procedure Upon Appeal..... 3
Section 6.01 Scheduled Hearing 3
Section 6.02 Authority of the Board 3
Section 6.03 Conduct of Hearing..... 3
Section 6.04 Representation by Counsel 4
Section 6.05 Ruling by the Board 4
Section 6.06 Appeal of Board Decision..... 5
Rule VII - Changes in Rules and Procedures..... 5
Section 7.01 Effective Date 5
Rule VIII - Validity..... 5
Section 8.01 Validity 5

Rule I - General Provisions

Section 1.01 Adoption of Rules

These Rules and Procedures of the Fire Appeals Board of the City of Huber Heights are hereby adopted in accordance with the authority conferred upon said Board by Section 1517.09 of the City Code of Huber Heights, Ohio.

Section 1.02 Rules of the Board

These rules and Robert's Rules of Order, Revised, shall govern the operation of the Board. The rules may be amended at any meeting by majority vote of the members of the Board, provided that notice of said proposed amendment is given in writing at least two (2) weeks prior to said meeting.

Section 1.03 Rules of the Board to be Available to the Public

An official copy of the rules of the Board, in current form, shall be available in the office of the Board as a public record. Additional copies shall be provided to members of the Board and made available to the public on request, but the official copy shall govern. No amendment to these rules shall become effective until incorporated in the official copy.

Section 1.04 Office of the Board

As a matter of normal practice, the City Manager provides for the office of the Board and the custody and care of its records. The Secretary operates the office and has permanent custody of the Board's records.

Section 1.05 City Attorney Opinions Binding on the Board

The City Attorney shall provide such legal services, assistance, interpretations, and opinions required by the Board. As the chief legal authority for the City their interpretations and opinions shall be binding on the Board.

Rule II - Organization

Section 2.01 Membership

- A. The Fire Appeals Board shall consist of the City of Huber Heights Fire Chief, City Engineer, and a member at large from the building community appointed by City Council (City Code Section 1517.09)
- B. It shall be the duty of each member of the Board to attend the meetings of the Board and to take action reasonably needed to conduct the business and affairs of the Board.
- C. Each member shall serve without compensation. City Employee board members may attend meetings during their scheduled work time.

- D. The Chairman shall notify the City Council of any vacancies which occur on the Board and shall request an expeditious appointment to fill the vacancy.
- E. The Board shall hear and adjudicate appeals related to a decision or interpretation by the Fire Official made under the provisions of the Ohio Fire Code.

Section 2.02 Election of Chairperson

At its first meeting each year, the Board shall elect or appoint a Chairperson. The Chairperson shall preside at all meetings of the Board. The Chairperson, subject to these Rules, shall decide all points of procedure according to Roberts' Rules of Order unless otherwise directed by a majority of the Board in session at that time; and shall perform any other duties required by law or these Rules.

Vacancies in office shall be filled through the regular election procedure at the first meeting following the appointment of a new member of the Board.

Rule III - Meetings and Attendance

Section 3.01 Regular Meetings

Regular meetings of the Board to hear appeals or transact other business shall be held as necessary on such date, time and place as the Board shall establish.

Section 3.02 Attendance

Three unapproved or unexcused absences by any board member within a calendar year shall be cause for removal. Should any member miss three (3) meetings in any calendar year, without Board approval that information should be reported to the City Council along with a request for a replacement for the absent member.

Rule IV - Conduct of Meetings

Section 4.01 Open Meetings

All regular meetings of the Board shall be open to the public except for sessions called to discuss items specifically exempted under Section 121.22 of the Ohio Revised Code, also known as the Ohio Sunshine Law.

Section 4.02 Quorum

Two (2) members of the Board shall constitute a quorum.

Section 4.03 Voting

On any question put to a vote, each member present shall cast a vote unless excused by the Chairperson for reasons of a personal or private interest in the matter under consideration. Abstentions shall be counted as votes.

Section 4.04 Action by the Board

All actions of the Board shall have the concurrence of at least two (2) members of the Board, except as otherwise provided by these Rules.

Section 4.05 Minutes

The Secretary shall keep or cause to be kept minutes of the proceedings of the Board showing the vote of each member upon each question. The minutes shall be kept in the Office of the Clerk of the Council and, along with other official actions, shall be open to the public.

Rule V - Duties of the Board

Section 5.01 Appeals of the Ohio Fire Code

Pursuant to City Code Section 1517.09, the principal duty of the Board shall be to hear appeals upon the request of any person aggrieved by a decision or interpretation by the Fire Official made under the provisions of the Ohio Fire Code.

Section 5.02 Other Duties

The board shall perform other duties as may be stipulated in these Rules and Procedures and the City Code or City Charter.

Rule VI - Procedure Upon Appeal

Section 6.01 Scheduled Hearing

- A. Upon receipt of a properly filed written appeal and the \$100 non-refundable filing fee, filed within ten (10) days of the Fire Official's notice or order, the Appeals Board shall promptly schedule a date, time, and location for the hearing.
- B. Written notice of the hearing shall be provided to the appellant and the Fire Official (or their designee), and public notice shall be published in a local newspaper in accordance with Huber Heights Ordinance § 1517.09(d).

Section 6.02 Authority of the Board

- A. The Appeals Board is composed of the Fire Chief, City Engineer, and a member of the building community appointed by City Council, as established in Ordinance § 1517.09(b).
- B. The Board may request the production of relevant records and documents as necessary to fairly adjudicate the appeal.

Section 6.03 Conduct of Hearing

- A. The hearing shall be open to the public unless closure is permitted by law.

- B. The hearing shall proceed in the following order:
- a. **Opening Statement by the Chairperson:** Overview of the procedure and rules for decorum.
 - b. **Presentation by the City Manager (or designee):** Presentation of the City's basis for the interpretation, decision, or enforcement action under appeal.
 - c. **Witness Testimony by the City:** The City may present relevant witness testimony.
 - d. **Presentation by the Appellant:** The aggrieved party presents evidence and arguments contesting the Fire Official's decision.
 - e. **Witness Testimony by the Appellant:** The appellant may present witnesses or other supporting evidence.
 - f. **Rebuttal Evidence:**
 - i. The City may present rebuttal evidence in response to the appellant's presentation.
 - ii. The appellant may then present rebuttal evidence limited to addressing new matters raised by the City's rebuttal.
 - g. **Public Comment:** The Board may permit public comment at its discretion, subject to reasonable limitations on time and relevance.
 - i. **Deliberation and Decision:** The Board may deliberate and render its decision during the open meeting. Alternatively, it may take the matter under advisement and issue a written decision within the time specified in Section 5(A).
- C. The Board may allow the submission of written briefs and may establish deadlines for filing and service.
- D. The Board is not bound by formal rules of evidence or procedure. It may admit or exclude evidence at its discretion. Testimony shall be given under oath or affirmation and is subject to cross-examination.
- E. The Board retains full discretion over the manner and conduct of the hearing, including the ability to require submission of documents or evidence it deems necessary to reach a fair and informed decision.

Section 6.04 Representation by Counsel

Both the City and the appellant may be represented by legal counsel or another representative of their choosing.

Section 6.05 Ruling by the Board

- A. The Board may render its decision at the conclusion of the hearing during the open meeting. If the matter is taken under advisement, the Board shall issue a written

decision within thirty (30) days following the hearing. A majority of the Board must approve the decision.

- B. The decision shall be provided to the appellant and the City Manager (or designee), and shall be maintained as part of the administrative record.
- C. If the appellant or their representative fails to appear at the scheduled hearing without good cause, the Board may dismiss the appeal and take no further action.

Section 6.06 Appeal of Board Decision

Any party aggrieved by the Board's final decision may appeal to the Montgomery County Court of Common Pleas pursuant to Chapter 2506 of the Ohio Revised Code.

Rule VII - Changes in Rules and Procedures

Section 7.01 Effective Date

- A. These Rules may be amended, repealed, or supplemented at any time and new rules adopted, provided that any such change will not be effective until seven (7) days following the approval of the change by a motion of the Board.
- B. Notwithstanding the above, the Board may suspend the seven-day waiting period when it determines that circumstances warrant such suspension. A motion to suspend the waiting period shall require the unanimous approval of the Board members who are present at the meeting wherein such motion is made.

Rule VIII - Validity

Section 8.01 Validity

Should any provision of these Rules and Procedures, as may be amended, repealed, or supplemented from time to time, be held unlawful, unenforceable or otherwise invalid by any judicial or legislative tribunal of competent jurisdiction, then such decision or legislation shall apply only to that specific provision. The remaining provisions of these Rules and Procedures shall remain in full force and effect.

Adopted: August 5, 2025


Chair

Effective Date: August 5, 2025







