**IPC 2012**

**SECTION 109 MEANS OF APPEAL

[A] 109.1 Application for appeal.**
Any person shall have the right to appeal a decision of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the code official within 20 days after the notice was served.  **[A] 109.2 Membership of board.**
The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for 5 years, one for 4 years, one for 3 years, one for 2 years and one for 1 year. Thereafter, each new member shall serve for 5 years or until a successor has been appointed.

**[A] 109.2.1 Qualifications.**
The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

1. Registered design professional who is a registered architect; or a builder or superintendent of building construction with at least 10 years’ experience, 5 years of which shall have been in responsible charge of work.

2. Registered design professional with structural engineering or architectural experience.

3. Registered design professional with mechanical and plumbing engineering experience; or a mechanical and plumbing contractor with at least 10 years’ experience, 5 years of which shall have been in responsible charge of work.

4. Registered design professional with electrical engineering experience; or an electrical contractor with at least 10 years’ experience, 5 years of which shall have been in responsible charge of work.

5. Registered design professional with fire protection engineering experience; or a fire protection contractor with at least 10 years’ experience, 5 years of which shall have been in responsible charge of work.

**[A] 109.2.2 Alternate members.**
The chief appointing authority shall appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership, and shall be appointed for 5 years or until a successor has been appointed.

**[A] 109.2.3 Chairman.**
The board shall annually select one of its members to serve as chairman.

**[A] 109.2.4 Disqualification of member.**
A member shall not hear an appeal in which that member has any personal, professional or financial interest.

**[A] 109.2.5 Secretary.**
The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**[A] 109.2.6 Compensation of members.**
Compensation of members shall be determined by law.

**[A] 109.3 Notice of meeting.**
The board shall meet upon notice from the chairman, within 10 days of the filing of an appeal or at stated periodic meetings.  **[A] 109.4 Open hearing.**
All hearings before the board shall be open to the public. The appellant, the appellant’s representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

**[A] 109.4.1 Procedure.**
The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**[A] 109.5 Postponed hearing.**
When five members are not present to hear an appeal, either the appellant or the appellant’s representative shall have the right to request a postponement of the hearing.  **[A] 109.6 Board decision.**
The board shall modify or reverse the decision of the code official by a concurring vote of three members.

**[A] 109.6.1 Resolution.**
The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official.

**[A] 109.6.2 Administration.**
The code official shall take immediate action in accordance with the decision of the board.

**[A] 109.7 Court review.**
Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.