

## ORDINANCE 14-12-O

**AN ORDINANCE UPDATING CHAPTER 1351 OF THE CITY OF CELINA'S CODIFIED ORDINANCES BY REPEALING THE CURRENT CHAPTER 1351 OF THE CITY OF CELINA'S CODIFIED ORDINANCES AND REPLACING IT WITH AN UPDATED CHAPTER 1351; AND ENACTING A NEW CHAPTER OF THE CITY OF CELINA'S CODIFIED ORDINANCES WHICH SHALL BE KNOWN AS CHAPTER 1361 OF THE CITY OF CELINA'S CODIFIED ORDINANCES; AND DECLARING AN EFFECTIVE DATE.**

WHEREAS, the City of Celina finds it necessary to address ongoing problems with unsafe structures in the City of Celina; and

WHEREAS, in order to address these ongoing problems it is necessary to clarify ambiguities in the language of the existing Chapter 1351; and

WHEREAS, in order to address these ongoing problems it is necessary to create a Building Appeals Board; and

WHEREAS, the City Council's Community Betterment Committee has held a public meeting on March 19, 2012 to collect input from the public regarding the proposed updated Chapter 1351 and the proposed new Chapter 1361; and

WHEREAS, the City Council's Community Betterment Committee has met to review both the proposed updated Chapter 1351, as well as the proposed new Chapter 1361, and has recommended its submission to the whole Council for consideration.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Celina, County of Mercer, and State of Ohio.

### SECTION ONE

THAT, the current Chapter 1351 of the City of Celina's Codified Ordinances is hereby repealed in its entirety and replaced by the updated Chapter 1351 attached hereto and labeled as "Exhibit A", which is fully incorporated herein by reference.


### SECTION TWO

THAT, the Chapter 1361 attached hereto and labeled as "Exhibit B", which is fully incorporated herein by reference, be and is hereby adopted as law.

### SECTION THREE

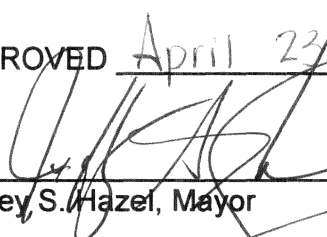
THAT, said updated Chapter 1351 and new Chapter 1361 shall take effect and be in force from and after its passage and approval by the Mayor at the earliest period allowed by law, namely thirty days following passage of this Ordinance, which Council reasonably-anticipates being May 23, 2012.

PASSED this 23 day of April, 2012.

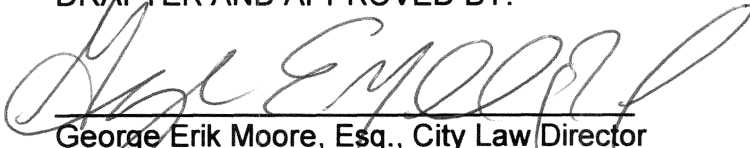
  
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Jason D. King, President of Council

ATTEST:

  
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Jackie L. Lacy, Clerk of Council

APPROVED April 23, 2012.  
  
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Jeffrey S. Hazel, Mayor

DRAFTER AND APPROVED BY:

  
\_\_\_\_\_  
George Erik Moore, Esq., City Law Director

CHAPTER 1351  
Unsafe Buildings

1351.01	Nuisance Prohibited.	1351.07	Duties of the Building Inspector; Notices.
1351.02	Right of Entry.	1351.08	Appeals
1351.03	Dangerous and Unfit Structures Defined.	1351.09	Failure to Comply; Remedy of City.
1351.04	Dangerous Structures Declared Nuisances.	1351.10	Duties of the Director of Law.
1351.05	Repair or Demolition of Dangerous Structures.	1351.11	Emergency Cases
1351.06	Fire Damaged Structure Removal; Repair Securing Fund.	1351.12	Absence of Owner from City
		1351.13	Code Not Exclusive
		1351.14	Separability.

CROSS REFERENCES

Power to regulate: see Ohio R.C. 715.26; 715.29; 737.28  
Removal of unsafe structures: see Ohio R.C. 715.26; 715.261  
Director of Law: see Ohio R.C. 733.01, et seq.  
Building Appeals Board defined: Celina Codified Ordinance Chapter 1351

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1351.01 NUISANCE PROHIBITED.

No owner (with the term "owner" in this Chapter including: the owners of record of the premises of fee or lesser estate therein, a mortgagee, vendee in possession, land contract purchaser, assignee of rents, receiver, executor, administrator, trustee, or lessee, as determined by an examination of the public records of Mercer County, Ohio, or any other person, firm, or corporation in control of a building, or their duly authorized agent(s)) of a building or structure within the boundaries of the City of Celina, Ohio (hereinafter "City") shall permit the same to remain in such an advanced state of disrepair as to endanger the health, safety and welfare of the residents of the City or so as to be a public nuisance by reason of its condition.

1351.02 RIGHT OF ENTRY.

The Director of Public Service and Safety and/or his designee(s) shall henceforth have the duties of Building Inspector which duties are provided by this chapter, and he and/or his designee(s) shall have free access at any reasonable hour, upon showing appropriate identification when a building is occupied, to make inspection, examination and survey of any building, dwelling, or structure located within the Municipality, where he has probable cause to believe the building, dwelling, or structure is unsafe or insecure and thereby dangerous to the residents of the Municipality.

1351.03 DANGEROUS AND UNFIT STRUCTURES DEFINED.

Any structure which, in the determination of the Building Inspector and/or his designee(s) has any of the following defects shall be deemed to be a dangerous or unfit structure.

- (A) Those whose interior or exterior walls or other vertical structural members list, lean or buckle.
- (B) Those which show damage to or deterioration of the supporting member or members or damage to or deterioration of the non-supporting enclosing or outside walls or covering, including the roof.
- (C) Those which have been so damaged by decay, deterioration, fire, wind or other elements, or other causes, as to be dangerous to the life, safety or general health and welfare of the occupants or the general public.
- (D) Those which are so dilapidated, decayed, unsafe or unsanitary, or which so fail to provide the amenities essential to decent living or occupancy, that they are unfit for human habitation, use or occupancy.
- (E) Those which have parts thereof so insecurely attached, that they may fall and injure persons or property, or those which, as a whole, may fall and injure persons or property.
- (F) Those which lack proper roof or window covering, allowing water to enter the structure.
- (G) Those which, because of their general condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of any occupants or the general public.
- (H) Those which have been vacant, closed-up, or boarded-up for a period of at least two years.
- (I) Those which are in violation of any applicable Federal, State and/or local Building Code(s).
- (J) Those which the Building Inspector determines for any reasons not included herein to be insecure, unsafe, structurally defective, or otherwise unfit for habitation, use or occupancy.

#### 1351.04 DANGEROUS STRUCTURES DECLARED NUISANCES.

All dangerous structures, as described in Section 1351.03, are hereby declared to be public nuisances and shall be repaired or demolished in accordance with an order from the Building Inspector and/or his designee(s).

#### 1351.05 REPAIR OR DEMOLITION OF DANGEROUS STRUCTURES.

- (A) If a dangerous structure can reasonably be repaired so that it will no longer be in violation of the provisions of Chapter 1351 of the Celina Codified Ordinances (hereinafter known as this "Building Code"), it shall be ordered repaired, subject to the provisions of subsection (B) hereof.
  - (1) Whenever the Building Inspector and/or his designee(s) determines that the cost of such repairs would exceed one hundred percent of the current value of such structure as determined by the real property taxation valuation records maintained by the County Auditor, such repairs shall be presumed unreasonable and it shall be presumed for the purposes of this chapter that such structure is a public nuisance which shall be ordered demolished.
- (B) If the Building Inspector and/or his designee(s) determines that a dangerous structure cannot be reasonably repaired, or that the structure been closed or boarded-up for a period of at least 2 years, an order shall be issued to demolish the structure.
- (C) All doors, windows and other openings shall be covered with a minimum of one-half inch thick painted structural sheeting material, closely butted at the edges and

maintained. Such coverings may be installed to fit over the exterior casing. However, there shall not be edges or cracks that will serve as handholds for tearing off of the same. All coverings shall be anchored by nails or screws and shall not be capable of being removed without tools. Any porch floor, railing, post or roof, or any other attachment to the structure, in danger of falling or causing injury by being decayed or having holes that could cause tripping or falling, shall be repaired and maintained. All loose debris and discarded boards and lumber shall be kept clear of the premises.

#### 1351.06 FIRE DAMAGED STRUCTURE REMOVAL; REPAIR SECURING FUND.

The City is hereby authorized to utilize the procedure described in Ohio R.C. 3929.86(c) and (d), whereby no insurance company doing business in the State shall pay a claim of the named insured for fire damage to a structure located within the City where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000) unless there is compliance with the following procedures:

- (A)
  - (1) When the loss agreed to between the named insured or and the company or companies equals or exceeds percent the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies, in accordance with Ohio R.C. 715.26(F) or Ohio R.C. 505.86, shall transfer from the insurance proceeds to the Building Inspector in the aggregate two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00), and each fraction of that amount, of a claim. However, if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed of the costs of removing, repairing or securing the building or other structure, then the insurance company or companies shall transfer from the insurance proceeds the amount specified in estimate.
  - (2) The Building Inspector or his or her designee shall establish the criteria for securing such structure and/or such property.
  - (3) The transfer of proceeds shall be on a pro rata basis by all insuring the building or other structure. Policy proceeds remaining after the transfer to the City shall be disbursed in accordance with the policy terms.
  - (4) The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure. After the transfer, the Building Inspector shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the City has not commenced to remove, repair or secure the building or other structure.
- (B)
  - (1) Upon receipt of proceeds by the City as authorized by this section, the Building Inspector shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the City pursuant to Ohio R.C. 715.261. (2) When transferring the funds as required in division (a) of this section, an insurance company shall provide the City with the name and address of the named insured or insureds, whereupon the City shall contact the named insured or insureds, certify that the proceeds have been received by the City, and notify them that the following procedures will be followed: The fund shall be returned to the named insured or insureds when repairs, removal or securing of the building or other structure has been completed

and the required proof has been received by the Building Inspector. If the City has not incurred any costs for such repairs, removal or securing, the City shall transfer the fund to the named insured or insureds no later than sixty (60) calendar days after the Building Inspector receives the required proof that the building or other structure has been repaired, removed or secured as to prevent unauthorized entry into the structure and/or onto the property itself. If the City has incurred any costs for the repairs, removal or securing of the building or other structure, such costs shall be paid from the fund, and if excess funds remain, the Building Inspector shall transfer the remaining funds to the named insured or insureds no later than sixty (60) calendar days after all such costs incurred by the City have been paid. Nothing in this section shall be construed to limit the ability of the City to recover any deficiency under Ohio R.C. 715.261. Required proof, for the purpose of this section, shall mean that the building or structure has been secured in accordance with the criteria established by the Building Inspector or his or her designee to prevent unauthorized entry into such building or structure and/or onto said property.

- (3) Nothing in this section shall be construed to prohibit the City and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.
- (C) The Building Inspector of the City is hereby designated as the officer authorized and directed to carry out the duties of this section. The Building Inspector shall file a certified copy of this section with the Superintendent of Insurance of the State.

#### 1351.07 DUTIES OF THE BUILDING INSPECTOR; NOTICES.

The Building Inspector and/or his designee(s) shall:

- (A) Inspect or cause to be inspected, as necessary, any building in the City for the purpose of determining whether any conditions exist which render such buildings dangerous buildings, as defined in Section 1351.03;
- (B) Inspect any building, wall or structure about which complaints have been filed by any person to the effect that such building, wall or structure is or may be existing in violation of this Building Code;
- (C) Notify in writing the owner, occupant, lessee, mortgagee or agent of the same and all other persons having an interest, as shown by the land records of the County Recorder or County Treasurer or County Auditor in any building found to be a dangerous building, as defined in Section 1351.03, that:
  - (1) The owner shall vacate, repair or demolish such building in accordance with the terms of the notice and this Building Code;
  - (2) The occupant or lessee shall either vacate such building or have it repaired in accordance with the notice, in which latter case, such occupant or lessee may remain in possession; and
  - (3) The mortgagee, agent or other persons having an interest in such building may, at his own risk, repair, vacate or demolish such building or have such work done, provided that any person so notified shall be given such reasonable time, not exceeding sixty (60) calendar days, as may be necessary to do or have done the work required by the notice;

- (D) Set forth in the notice provided for in subsection (C) hereof, a description of the building or structure deemed a dangerous building, a statement of the particulars which make the building or structure a dangerous building and an order requiring that such building or structure be made to comply with the terms of this Building Code within such length of time, not exceeding sixty (60) calendar days, as is reasonable;
- (E) Give advice concerning procedure for appeal;
- (F) Appear at all hearings conducted by the Building Appeals Board and testify as to the condition of dangerous buildings;
- (G) Place a notice on all dangerous buildings reading as follows:  
"This building has been found to be a dangerous building by the Building Inspector of the City of Celina, Ohio. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in such building as shown by the land records of the County Recorder or County Treasurer or County Auditor of Mercer County, Ohio. It is unlawful to remove this notice until such notice is complied with";
- (H) Adequately photograph such dangerous buildings; and
- (I) Cause such work to be done as may be necessary to render such structure or part thereof temporarily safe to passersby, adjacent properties and occupants, pending the vacation, repair or demolition thereof, whether or not the Inspector has previously issued any order of vacation therefor. In lieu of attempting to make such structure or part temporarily safe, he may, when necessary for the public safety, temporarily close such adjacent properties and any affected streets and other public ways and areas and prohibit the use thereof.  
The cost for such work shall be collected in the manner provided in Section 1351.09.

#### 1351.08 APPEALS.

- (A) Any person affected by a notice and order issued in connection with the enforcement of this Building Code or other provisions of law shall be granted a hearing on the matter before the Building Appeals Board, provided that such person files in the office of the Building Inspector a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for mitigation of the order. Such petition shall be filed within ten (10) calendar days after the date of the notice and order served. The Inspector shall transmit to the Board all the papers pertaining to the action appealed from.
- (B) After the hearing, the Board, by a majority vote, shall sustain, modify or reverse the decision of the Inspector, depending on its findings regarding compliance with the provisions of this Building Code or other provisions of law. The petitioner and the Inspector shall be notified in writing of such findings.

#### 1351.09 FAILURE TO COMPLY; REMEDY OF CITY.

- (A) If the owner fails to comply with the findings provided for in Section 1351.08, within ten (10) calendar days thereof, the Building Inspector and/or his designee(s) shall cause the building or structure involved to be repaired, vacated or demolished, as required, according to standards provided in Section 1351.05. The Building Inspection and/or his

designee(s) shall, with the assistance of the Director of Law, cause the costs of such repair, vacation or demolition to be charged as a lien against the land on which the building exists or existed, to be added to the tax duplicate as an assessment, to be levied as a special tax against the land upon which the building exists or existed or to be recovered in a suit at law against the owner. However, the Building Inspector and/or his designee(s) may, in cases where it is desirable and where any delay caused thereby will not be dangerous to the health, morals, safety or general welfare of the City residents, request the Director of Law to take legal action to force the owner to make all necessary repairs or to demolish the building.

- (B) If the owner fails, neglects or refuses to comply with the notice to repair, rehabilitate or demolish any building or structure or portion thereof, the Inspector shall proceed with the work specified in such notice. The owner shall be personally liable for the cost of such work. In the event that such cost is not paid, the amount thereof shall be transmitted to Council who shall cause the same to be paid and levied as a tax assessment against the property.
- (C) Any cost incurred under subsection (B) hereof shall be paid out of the General Fund of the City of Celina, Ohio. Such cost shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located and shall be collected in the manner provided for special assessments or by the taking of a judgment against the owner.
- (D) The Building Inspector and/or his designee(s) shall report to the Director of Law the names of all persons failing to comply with the notice and order provided for in Section 1351.07 or the findings provided for in Section 1351.08. In abating such nuisance he may go to any extent necessary to complete the abatement thereof. Should it be practicable to sell or salvage any material derived in the abatement, he may sell such material at private or public sale at the best price obtainable and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be deposited in the General Fund. Any difference between the amount so received and the cost of the abatement shall be levied as an assessment against the property by Council, certified to the County Auditor and collected as any other assessment by the City. Should the proceeds of such sale exceed the cost of abatement, the surplus shall be paid to the owner of the premises when his proper claim therefor is established. In abating such nuisance, the Building Inspector may, by private contract, obtain the abatement thereof, if such private contract may be let without any expense to the City.

#### 1351.10 DUTIES OF THE DIRECTOR OF LAW.

The Director of Law or his assistant shall:

- (A) Prosecute all persons failing to comply with the terms of the notices provided for in Section 1351.07 and the findings provided for in Section 1351.08;
- (B) Appear at all hearings before the Building Appeals Board in regard to dangerous buildings, when his presence is requested or deemed necessary;
- (C) Bring suit to collect all liens, assessments or costs incurred by the City in repairing, vacating or demolishing dangerous buildings, unless such liens, assessments or costs are collected by assessment on the real estate; and
- (D) Take such other legal action as is necessary to carry out the terms and provisions of this Building Code.



#### 1351.11 EMERGENCY CASES.

In cases where there appears to be imminent danger to the life or safety of any person unless a dangerous building, as defined in Section 1351.03, is immediately repaired, vacated or demolished, the Building Inspector shall cause the immediate repair, vacation or demolition of such dangerous building. The cost of such emergency repair, vacation or demolition shall be collected in the manner provided in Section 1351.09.

#### 1351.12 ABSENCE OF OWNER FROM CITY

In all cases, except emergency cases, persons having an interest in real estate upon which a dangerous building is situated, including but not limited to the owner, shall be notified by one of the methods provided in the Ohio Rules of Civil Procedure. In the event that the address of a person cannot be ascertained with reasonable diligence, publication of notice shall be made once per week for two (2) consecutive weeks in a newspaper of general circulation within the City and as otherwise set forth in the Ohio Rules of Civil Procedure. If a person is served with notice by publication, a copy of the Building Inspector's order shall be posted in a conspicuous place on the dangerous building to which it relates. Notice by publication shall be complete after the expiration of fifteen (15) calendar days from the last publication.

#### 1351.13 CODE NOT EXCLUSIVE.

This Building Code shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the City, but shall be deemed as an enlargement of any authority existing by virtue of State law or any ordinance heretofore enacted by Council.

#### 1351.14 SEPARABILITY.

It is the intention of Council that each separate provision of this chapter be deemed independent of all other provisions hereof. It is further the intention of Council that if any provision of this chapter is declared invalid, all other provisions shall remain valid and enforceable.

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CHAPTER 1361  
Building Appeals Board

1361.01 Composition, Term and Meetings.	1361.04	Decisions.
1361.02 Appeals.	1361.05	Appeals from Decisions of the Board.
1361.03 Modifications and Variances.		

CROSS REFERENCES

Power to regulate: see Ohio R.C. 715.26; 715.29; 737.28  
Director of Law: see Ohio R.C. 733.01, et seq.  
Dangerous building(s) defined: Celina Codified Ordinance Chapter 1351  
Building Code defined: Celina Codified Ordinance Chapter 1351  
Building Inspector defined: Celina Codified Ordinance Chapter 1351

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- 1361.01 COMPOSITION, TERM AND MEETINGS.
- (A) Appointment. There is hereby established in the City a Building Appeals Board consisting of five members who are qualified by experience and training to pass judgment upon matters pertaining to building construction and who shall be appointed by the Mayor. The Mayor shall designate one of the members to serve as Chairman. All members of the Board shall be residents of the City.
  - (B) Term of Office. The Mayor shall appoint one member of the Building Appeals Board for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Thereafter, each member shall be appointed for a term of five (5) years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are made. Continued absence of any member from regular meetings of the Board shall, at the discretion of the Mayor, render such member liable to immediate removal from office by the Mayor.
  - (C) Quorum. Three (3) members of the Board shall constitute a quorum. In varying the application of any of the provisions of the Building Code or in modifying an order of the Building Inspector, the affirmative votes of three members shall be required. No member of the Board shall vote upon any question in which he, or any corporation in which he is a shareholder, is interested.
  - (D) Meetings and Records. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All hearings before the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote, or the absence or failure to vote of each member upon every question, and shall also keep records of its examinations and other official actions. The minutes and records shall be public records.
  - (E) Procedure. The Board shall establish rules and regulations for its own procedure which are consistent with the provisions of the Building Code.

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- 1361.02 APPEALS.
- (A) Any aggrieved person or the principal officer of any agency of the City may appeal to the Building Appeals Board from any decision of the Building Inspector.
  - (B) An appeal shall be made within ten (10) calendar days from the date of the decision appealed by filing with the Building Inspector a notice of appeal, specifying the grounds therefor. However, in the case of a building or structure which, in the opinion of the Inspector, is unsafe or dangerous, the Inspector may, in his order, limit the time for such appeal to a shorter period. The Inspector shall forthwith transmit to the Board all the papers pertaining to the decision from which the appeal was made.
- 1361.03 MODIFICATIONS AND VARIANCES.
- (A) Any appellant, the Building Inspector and any other person whose interests may be affected by the appeal shall be given a fair opportunity to be heard, in person or by counsel, and to present written argument.
  - (B) The Building Appeals Board, after a hearing in the presence of the appellant and the Inspector or their representatives, who have been given at least seven (7) calendar days notice in advance of such hearing, shall have the power to reverse or modify the order of the Inspector, if it finds:
    - (1) That the order is contrary to the Building Code and any rule or regulation made thereunder or contrary to a fair interpretation or application thereof; or
    - (2) That a variance from the provisions of the Building Code or any rule or regulation made thereunder, in the specific case, will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.
  - (C) A decision of the Board to vary the application of any of the provisions of the Building Code or to modify an order of the Inspector shall specify the manner in which such variance or modification shall be made, the conditions upon which it is made and the reasons therefor.
  - (D) The Board shall, upon application from either the appellant or the Inspector, grant a rehearing before the Board in any case where new evidence is presented which, in the opinion of the Chairman, justifies such rehearing. The rehearing shall not serve to stop execution of the previous decision of the Board pending the rehearing, unless the Board, by special action, so directs.
- 1361.04 DECISIONS.
- (A) The Building Appeals Board shall in every case reach a decision without unreasonable or unnecessary delay. Every decision shall be in writing, shall indicate the vote upon the decision, shall be promptly filed in the office of the Building Inspector (“Inspector”) and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Inspector for two (2) weeks after filing.
  - (B) If a decision of the Board reverses or modifies a refusal, order or disallowance of the Building Inspector or varies the application of any provision of the Building Code, the Inspector shall take action immediately in accordance with such decision.

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1361.05 APPEALS FROM DECISIONS OF THE BOARD.

Any person aggrieved by a decision of the Building Appeals Board, whether previously a party to the proceeding or not, or any officer or any board may, after the filing of such decision in the office of the Building Inspector, appeal to the appropriate court in accordance with law.