

CHAPTER 11

BUILDING BOARD OF APPEALS (1024,1620,4205)

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2-11-1: PURPOSE: (4205)

There shall be, and is hereby created, a Building Board of Appeals, consisting of nine (9) members who are qualified by experience and training to pass judgment upon matters pertaining to building and construction. The purpose of the Building Board of Appeals (Board) shall be to hear appeals from determinations made by the Building Safety Director and the Fire Marshal; to provide for reasonable interpretations of the provisions of the Mesa Municipal Code, Title 4 - Building Regulations (all Chapters) and Chapter 2 Fire Code of Title 7 - Fire Regulations; to determine the suitability of alternate materials and methods of construction; and to recommend changes of the various building and fire codes to the City Council. (4205)

2-11-2: MEMBERSHIP: (4205):

The members of the Board shall be appointed by the Mayor with the approval of the City Council for staggered terms of three (3) years each. No member shall serve more than two (2) complete consecutive terms, provided, however, a person may be reappointed after a lapse of three (3) years from the end of their last term. The Mayor shall designate, at the time of the initial appointment under this Chapter, the length of time for each of the members to provide for three- (3-) year staggered terms, and thereafter appointments shall be for three (3) years. Continued absence of any member from meetings of the Board shall, at the discretion of the City Council, render any such member liable for immediate removal from office by the Council. Any member absent for three (3) consecutive meetings without being excused shall be considered as having vacated their appointment. Appointments to fill unexpired terms shall be made in the same manner as the vacated member. Members of the Board shall serve without pay. (4205)

The Building Safety Director or designee shall serve as Secretary to the Board but shall have no vote therein. (4205)

2-11-3: QUALIFICATIONS: (4205)

The members of the Board shall consist of: one (1) architect licensed by the State of Arizona; one (1) general building contractor licensed by the State of Arizona and experienced in the construction of commercial / industrial buildings; one (1) homebuilder experienced in the construction of one- (1-) and two- (2-) family dwelling units; one (1) plumbing or mechanical contractor registered by the State of Arizona or one (1) mechanical engineer licensed by the State of Arizona; one (1) electrical contractor registered by the State of Arizona or one (1) electrical engineer licensed by the State of Arizona; one (1) person with experience in fire fighting techniques or fire protection systems or one (1) fire protection engineer licensed by the State of Arizona; and three (3) general public members. It is encouraged that one (1) of the general public members be a person with disabilities as defined by the Americans with Disabilities Act of 1990. (4205)

Members shall have had at least five (5) years of recent experience in their respective trade or profession. No member shall be a current employee of the City of Mesa. Members shall comply with the City of Mesa Ethics Handbook for Elected Officials and Advisory Board Members. (4205)

2-11-4: PROCEDURES: (4205)

The Board shall annually select one (1) of its members to serve as Chair and one (1) member to serve as Vice Chair. From time to time, the Board shall establish rules and regulations for its own procedures that are not inconsistent with the provisions of this Chapter. (4205)

An appeal of a determination of the Building Safety Director or the Fire Marshal shall be filed within thirty (30) days from the date of the determination. (4205)

The Board shall have the authority to overturn, uphold, or modify a determination of the Building Safety Director or the Fire Marshal, and shall have the same authority as the official in so doing. The Board shall be authorized to approve an alternate material or method of construction to that required by Title 4, provided the Board finds that the proposed design is satisfactory, complies with the intent of the requirements of Title 4, and the material, method, or work to be provided meets the intended purpose and is at least the equivalent to that prescribed in Title 4 in quality, strength, effectiveness, fire resistance, durability, and safety. (4205)

Appeals shall generally follow the following steps: (4205)

- (A) The Building Safety Director or Fire Marshal, as appropriate, shall brief the Board on the key elements of the appeal, including the Code requirements and other pertinent information, (4205)
- (B) The appellant may present further information explaining the facts and reasons for the appeal, (4205)
- (C) Appropriate City staff may add additional information, and (4205)
- (D) The Board shall deliberate the case and may hear additional testimony relevant to the appeal prior to reaching a decision. (4205)

The Board shall reach a decision without unreasonable or unnecessary delay. The Board shall render all decisions and findings in writing, signed by the Chair or Vice Chair. The Building Safety Director shall forward a notice of decision to the appellant by certified mail or personal delivery. Said notice of decision shall state the determination, reasons for the decision, conditions related to the granting of the determination as established by the Board, and whether or not the appeal meets the requirements of this Chapter. The decision of the Board shall be final, subject to court review only, and shall not be appealable to the City Council. (4205)

2-11-5: MEETINGS: (4205)

The Board shall meet upon notice of the Building Safety Director or Fire Marshal, at the request of the Chair or Vice Chair, within thirty (30) calendar days after the receipt by the Building Safety Director or the Fire Marshal of an appeal, or at stated periodic meetings. Meetings and hearings of the Board shall be public and in the presence of a quorum. Meetings shall conform to the requirements of the Open Meeting Laws of the State of Arizona. Appellants and their representatives shall be given an opportunity to be heard. (4205)

Minutes of meetings shall be made, and after approval at a subsequent meeting, shall be signed by the Chair or Vice Chair and retained on file in the Building Safety Division. (4205)

2-11-6: QUORUM AND VOTING: (4205)

Five (5) members of the Board shall constitute a quorum. In varying the application of any provision of the Building Code, Fire Code, or related codes of the City or in modifying an order of the Building Safety Director or the Fire Marshal, the affirmative vote of five (5) members shall be required. Failure to secure five (5) concurring votes shall be deemed a confirmation of the decision of the Building Safety Director or the Fire Marshal. Members shall be present to vote. (4205)

No member of the Board shall discuss or vote on any agenda item concerning a job or project in which they are engaged as a contractor, material dealer, or consultant, or in the preparation of drawings or specifications on any job or project in which they have any personal or financial interest. (4205)

2-11-7: COURT REVIEW: (4205)

Any person aggrieved by the decision of the Board, whether or not a previous party to the decision, or any municipal officer or official department of the City may, at any time within thirty (30) days after the filing of the Board's decision in the office of the Building Safety Director, file an appeal in writing with the Superior Court of the County by following the methods of appeal or review procedures in Arizona as set forth by the applicable statutes of the State of Arizona. (4205)

2-11-8: ENFORCEMENT: (4205)

The Building Safety Director is authorized to enforce decisions of the Board or, upon successful review, of the Superior Court. (4205)

2-11-9: FEES (4205)

The fee for each appeal to the Building Board of Appeals shall be as set forth in the schedule of fees and charges for the Development Services Department, Building Safety Division. Said fee shall be paid with the filing of the appeal and shall be refunded only if the Building Safety Director determines that the appeal cannot proceed. (4205)

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