

CITY OF MESA  
BUILDING BOARD OF APPEALS  
**BYLAWS**  
DECEMBER 6, 2004

I. ORGANIZATION

A. Officers

The Building Board of Appeals (Board) consists of nine members as prescribed by Title 2, Chapter 11 of the Mesa City Code.

1. **Selection:** the Mayor with City Council approval appoints the Members.
2. **Term:** Members will serve staggered three-year terms with no member serving more than two consecutive terms. (Note: members may be reappointed after a 3-year break in service.)
3. **Leadership:** The Board shall annually, or upon vacancy, select a Chair and Vice Chair from its membership who shall serve at the pleasure of the Board. The Chair, or in the absence of the Chair, the Vice Chair, shall preside at all meetings. In the event both the Chair and Vice Chair are unable to preside at the meeting, the members shall appoint a Chair Pro Tem for that specific meeting.
4. **Quorum & Voting:** Five members of the Board shall constitute a quorum; members must be present to vote. 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 or for which they have any conflict of interest.
5. **Absence:** Any member with three unexcused absences from meetings in any calendar year shall be considered to have vacated their appointment. Absences shall be considered as unexcused when a member fails to notify the Chair or the Secretary and provide a good cause for the absence in advance of the meeting.
6. **Pay:** Members serve without pay.
7. **Duties and Powers:** The Board shall have all authority and powers described in the Mesa Municipal Code.

B. Legal Counsel

The City Attorney shall serve as legal counsel for the Board.

C. Secretary

The Building Safety Director shall be the Secretary of the Board.

## **II. MEETINGS**

### **A. Regular**

Regular meetings of the Board shall convene on the third Wednesday of each month, unless otherwise determined by the Chair or the Secretary. All meetings shall be open to the public and held in compliance with State law, City ordinances, and these Bylaws.

### **B. Special**

The Board may convene special meetings. Special meetings shall be open to the public, and held in compliance with the provision of State law, City ordinances, and these Bylaws.

## **III. APPEALS**

### **A. Purpose**

The Board reviews appeals of determinations made by the Building Safety Director and the Fire Marshal, under the following guidelines:

1. To provide for reasonable interpretations of the provisions of the Mesa Municipal Code.
2. To determine the suitability of alternate materials and methods of construction.
3. To recommend changes to the various building and fire codes to the City Council.

### **B. Time Limit for Filing an Appeal**

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

### **C. Authority**

The Board shall have the authority to overturn, uphold or modify a determination of the Building Safety Director or the Fire Marshal. 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.

#### **D. Procedure**

The hearing of an appeal shall be subject to the following procedures, unless modified by the Board:

1. 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.
2. The appellant may only present information explaining the facts, reasons for the appeal and why the determination of the Building Safety Director or Fire Marshal should be overturned or modified. The appellant may not present new information; information that was not presented to the Building Safety Director or Fire Marshal.
3. Appropriate City staff may add additional rebuttal information.
4. The Board shall deliberate the case and may hear additional testimony relevant to the appeal prior to reaching a decision.
5. The Board may continue the hearing on any appeal for which the applicant fails to appear, or it may approve or deny the request; however, the Board may hear those persons appearing in response to the notice of hearing.
6. The Board may take any appeal under advisement for later consideration. The Board may also defer action on any appeal whenever it concludes that additional evidence is needed or that alternate solutions need further study.

#### **E. Decision**

1. Voting shall be by electronic signal, paper ballot, or voice vote, on the call of the Chair. Each member participating shall vote "yes" or "no." Upon decision of the Chair, whether before or after a voice vote, a roll call vote shall be taken and each member participating shall answer the roll call by voting "yes" or "no."
2. The Secretary shall summarize the opinion of the Board for the Chair or Vice Chair's signature. This written opinion shall be filed with the Building Safety Director or Fire Marshal. The Secretary shall also forward the notice of the decision to the appellant by regular mail or personal delivery.
3. Said notice of the decision shall state the determination, reasons for the decision, and conditions related to the granting of the determination as established by the Board.
4. The decision of the Board shall be final, subject to court review only, and shall not be appealable to the City Council.
5. The Board shall render its decision in writing within sixty (60) days of the final hearing on the issue.

#### **IV. MOTIONS FOR RECONSIDERATION**

The Board may reconsider an appeal only at the same meeting that the Board hears a matter, or at the next regularly scheduled meeting. Upon such a request or on a Board member's own initiative, a Board member who voted on the prevailing side may make a motion to reconsider a previous decision. A Motion for Reconsideration may be based on the Board Member's belief that there may have been a mistake in law, a mistake in the Board's interpretation of the evidence or due to the existence of previously unknown or unavailable evidence, or a mistake in procedure that may have affected the decision of the Board. The concurring vote of four members of the Board shall be necessary to grant a motion for reconsideration. If a motion for reconsideration does not receive four or more votes in favor of the motion, the motion is denied. If the Board denied an application and then grants a motion for reconsideration, the case may be reheard at that meeting or at the next regular meeting as determined by the Board.

#### **V. APPEAL OF THE BOARD**

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) calendar days after the filing of the Board's decision in the office of the Building Safety Director, file an appeal in writing with the Maricopa County Superior Court by following the methods of appeal or review procedures in Arizona as set forth by the applicable appellate statutes of the State of Arizona.

#### **VI. ENFORCEMENT**

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

#### **VII. AMENDMENTS**

The Bylaws may be amended by an affirmative vote of five members, and shall become effective the next regularly scheduled Board meeting.