



COCHISE COUNTY

# COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

**TO:** Board of Supervisors  
**THROUGH:** Michael Ortega, County Administrator  
**FROM:** Beverly Wilson, Deputy Director Planning Division  
**SUBJECT:** Docket R-13-05 (Building Code Advisory and Appeals Board)  
**DATE:** June 13, 2013, for the June 25, 2013, Board of Supervisors Meeting

## **I. NATURE OF REQUEST**

**Docket R-13-05 (Building Code Advisory and Appeals Board):** Docket R-13-05 is a recommendation for the formation of a Building Code Advisory and Appeals Board, establishing the By-Laws, and approving the necessary documentation for the Public to file appeals.

## **II: PLANNING AND ZONING COMMISSION**

At their regularly scheduled meeting on June 12, 2013, the Commission voted 6 – 2 to forward a recommendation of approval of the proposed formation of the Building Code Advisory and Appeals Board to the Board of Supervisors.

## **III: BACKGROUND**

In 1970, the Arizona Legislature enacted A.R.S. 11-861 establishing into Arizona Law the legislative authority for Arizona Counties to adopt codes, provided that they have already adopted zoning. The codes specifically outlined in this law include "...building codes and other related codes to regulate the quality, type of material and workmanship of all aspects of construction of buildings or structures...." Furthermore, ARS 11-862 specifically states that: "Any code adopted pursuant to this article shall contain a provision for an advisory board consisting of at least five members in order to determine the suitability of alternative materials and construction and to permit interpretations of the provisions of such code."

On December 14, 2004, the Board of Supervisors implemented a plan to expand the existing 2003 International Building Code (IBC) county-wide to promote the public health, safety, and welfare of the Citizens of Cochise County. This version of the IBC contains the same language

for the formation of a Board that also will be able to determine the suitability of alternative materials and construction and to review interpretations of the Building Code. Perhaps the span of time between the enactment of ARS 11-862 and Section R112 of the 2003 IBC resulted in the language that recommends that this Board be called a “Board of Appeals.” Regardless, so far nine of the 15 Arizona Counties have combined these functions to form a “Building Code Advisory and Appeals Board.”

Per Arizona Revised Statute:

- Members shall be appointed by the Board of Supervisors;
- Members shall be appointed for a term of four years, some initially for shorter terms, so that terms may be staggered to allow for at least one but no more than two terms to expire each year. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made;
- The Board will be formed of at least five, but not more than seven members;
- The Board shall include an architect duly registered in Arizona, a professional engineer registered in Arizona, a general contractor duly licensed in Arizona, a person representing the public and a resident of Cochise County, a person engaged in the electrical, mechanical, or plumbing trade, and additional members who may be engaged in the construction and design industry; and
- The County Official charged with the enforcement of the building code shall serve, without vote, as an ex officio member of the board and shall act as the secretary.

Furthermore, all positions will be filled to the extent that the persons meeting the qualifications are available within the county and are residents of the county. Each appointee shall have substantial experience in the field covered by the building code. The functions and duties of the Building Code Advisory and Appeals Board may be specified by regulation by the Board of Supervisors, and are outlined in the attached By-Laws. The newly formed Building Code Advisory and Appeals Board will hear and decide appeals of orders, decisions or determinations made by the County Building Official; hear and determine the suitability of alternative materials and construction methods, if denied by the Building Official; and act as an Advisory Board to the Planning Division of Community Development, the Building Official, and the Board of Supervisors on any proposed revisions or additions to Adopted County Codes.

Staff also recommends that any party that disagrees with the decision of the Building Code Advisory and Appeals Board be provided with the right to appeal that decision to the Board of Supervisors by delivering a request for an appeal in writing, together with the written decision of the Board of Appeals, to the Clerk of the Board of Supervisors within seven (7) days of receipt of the decision. The Board of Supervisors would then be required to hold a hearing on the appeal within thirty (30) days of receipt of the appeal.

ARS 11-862E states that “The functions and duties of the Building Code Advisory and Appeals Board may be specified by regulation by the board of supervisors.” A sample of the Ordinance prepared for the Board to review is attached, as well as the proposed By-Laws.

#### **IV: SUMMARY**

Arizona Statutes clearly state that if a County adopts a Building Code, the Board of Supervisors may specify by regulation the functions and duties of an Advisory Board. Creation of a Building Code Advisory and Appeals Board is within the scope of that authority. Staff has been directed to create the documentation for this purpose, and has provided a draft set of By-Laws, as well as a Draft Ordinance. The Planning and Zoning Commission has forwarded this request with a recommendation of approval.

#### **III: RECOMMENDATION**

Staff recommends that the Board of Supervisors approve the formation of a Building Code Advisory and Appeals Board, as proposed.

#### **ATTACHMENTS:**

By-Laws and Rules of Procedure  
Appeal to Building Code Board of Appeals Form  
Board of Appeals Decision Form