

## ORDINANCE NO. 3096

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING CHAPTER 29, SUBSECTION 29-1.2 RELATING TO THE BOARD OF APPEALS

**WHEREAS**, The Board of Appeals is designated to hear appeals of code enforcement decisions.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Chandler, Arizona, as follows;

**Section 1.** Subsection 29-1.2. is hereby amended to read as follows:

### **Sec. 29-1.2. Board of appeals established; procedural rules.**

In accordance with section 204 of the Uniform Administrative Code as adopted, a board of appeals is hereby established. The board of appeals shall provide a means by which persons may (a) appeal interpretations of this chapter 29 made by the building official, or (b) seek a determination of the suitability of alternate materials and methods of construction or (c) appeal a designation of slum property or (d) appeal abatement orders issued pursuant to chapter 30 of this code. The following rules and regulations governing the establishment and procedures of the board of appeals are hereby adopted. The procedures set forth herein shall supersede any previous rules and procedures.

*A. Creation and appointment.* The board of appeals shall consist of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the City of Chandler. Such board shall be structured as set forth in section 6.01 of the City Charter. Only one (1) member may be appointed from any single company, corporation, business or organization concurrently.

The secretary of the board shall be an ex officio member and shall be the building official or his appointed representative as approved by the City Council.

Members shall serve without compensation.

*B. Term of office.* The term of office of members shall be as set forth in section 6.01 of the City Charter, except that the expiration dates of members' terms shall be so scheduled to provide the continuity of at least two (2) members with a minimum of one (1) year of previous board experience.

A member whose term has expired, or who otherwise becomes ineligible, shall serve on the board until a qualified successor has been appointed and approved.

*C. Meetings.* The board shall meet monthly, unless otherwise rescheduled by a majority vote of the members when no appeals are pending. Meeting locations and times may be set at the discretion of the board. All such meetings shall be open to the public.

Notice of the time and place of any regular or special meeting, including an agenda of the matter(s) to be discussed, shall be given at least ten (10) days prior to the meeting.

The board shall elect a chairman in May of each year who shall have the power to administer oaths and take evidence, and appoint any such officers deemed desirable. The chairman will serve for a term of one (1) year, and may serve as chairman for a successive year if so elected by a majority of the other board members. The secretary of the board shall keep a record of its actions and render a report to the mayor and council of each meeting. Any finding, ruling or decision of said board shall be fully reported in the minutes of City Council.

Written minutes of board proceedings showing the vote of each member and all actions taken shall be kept. Records of its examinations, minutes and other official actions shall be open to public inspection except as otherwise specifically prohibited by law.

*D. Powers.*

1. The board shall reasonably interpret this chapter 29 when the meaning of any word or phrase of a section is in doubt; when there is a dispute as to such meaning between the appellant and the enforcing officer; or when it is alleged that there is error in any order, requirement, decision or determination made by the building official in the enforcement of this chapter.
2. The board may approve alternate materials, design or methods of construction, provided it finds that the proposed alternate is suitable for the intended application, and complies with the intent of this chapter, and is, for the purposes intended, at least the equivalent of that prescribed in the Uniform Building Code in quality, strength, effectiveness, fire resistance, durability and safety.
3. The Board shall hear and determine appeals regarding the designation of slum property and code enforcement and nuisance abatement orders pursuant to Chapter 30 of this code.

*E. Quorum and voting.* Three (3) members of the board shall constitute a quorum. In recommending the approval of an appeal or alternate materials or methods of construction, the affirmative vote of three (3) members shall be required. If recommending amendments to this chapter or new legislation, the affirmative vote of four (4) members is required.

*F. Appeals.*

1. An appeal to the board of Building Official Decisions may be initiated by any person(s) who disputes a decision of the building official. The appeal must be initiated within thirty (30) days after receiving notice of such decision by filing with the City Clerk in writing a notice of appeal, specifying the reasons and circumstances. Self-imposed hardships shall not be grounds for an appeal. The City Clerk shall cause to be transmitted to the board all records pertaining to the appealed action.

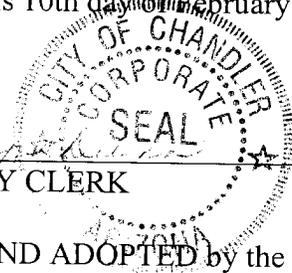
The board may refuse to grant a hearing of any case in which the appeal requests a waiver of any provisions of this Chapter 29.

2. An appeal to the board of slum property designation and code enforcement or nuisance abatement orders may be initiated by the owner or other responsible party in accordance with the provisions of Chapter 30 of this code.
  3. Upon receipt of the notice of appeal in proper form, and upon proper public notice, the board shall proceed to hold a public hearing of the appeal at their next regular meeting.
  4. An appeal stays all proceedings against the appellant in the matter appealed, unless the building official certifies to the board that, in his opinion and by the facts stated, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed, except by restraining order to the building official by a court having jurisdiction or as may be determined by the board in a special meeting which may be held after twenty-four (24) hours' posting for public notification.
- G. *Board decision; time limit.* The board shall decide on any matter within fifteen (15) days after the date of said hearing, unless a specified extension of time for deliberation is agreed upon by the appellant. A decision in favor of any appellant shall be an order to the building official to carry out such action subject to any conditions required by the board.
- H. *Court review.* Appeal from the decision of the board of appeals shall be to a court having jurisdiction in the matter under consideration and in the manner prescribed by law.
- I. *Reapplication.* In the event that an appeal is denied (or technically denied) by the board, the board shall reserve the right to refuse to consider another appeal on the same subject matter under like circumstances within one (1) year from the date of hearing on the previous appeal.
- J. *Executive sessions.* Executive sessions of the board of appeals may be held for only those reasons and pursuant to those conditions authorized by state law or the City Charter. Executive sessions may be held upon twenty-four (24) hours' posting and notification of the board.
- No executive session may be held for the purpose of taking any final action or making any final decision, unless seven (7) days' public notice has been posted and parties to an appeal have been duly notified.
- K. *Financial.* The board of appeals shall not incur debts, nor make any purchases or enter into any contracts binding upon the City.
- L. *Conflict of interest.* Any member of the board who has a conflict of interest in any matter brought before this board of appeals shall make known such interest in the minutes of the board and shall refrain from voting upon or otherwise participating in any manner in such matter. The existence of a conflict of interest shall be determined by reference to state law and/or the City Charter.

M. *Amendments of procedural rules.* Any proposed amendments of these procedural rules shall be considered at a public meeting of the board for which notice has been given.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 10th day of February 2000.

ATTEST:

  
Carolyn Bean  
CITY CLERK

Jay Libbey  
MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this 24<sup>th</sup> day of February 2000.

ATTEST:

  
Carolyn Bean  
CITY CLERK

Jay Libbey  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 3096 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 24<sup>th</sup> day of February 2000, and that a quorum was present thereat.

Carolyn Bean  
CITY CLERK

APPROVED AS TO FORM:

Dennis M. O'Neil  
CITY ATTORNEY

PUBLISHED: