

## ORDINANCE O-24-14

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE COUNTY OF COCHISE, STATE OF ARIZONA, AMENDING THE CITY CODE BY REPEALING CHAPTER 7 BUILDING, ARTICLE 7.14, BOARDS OF APPEAL, AND REPLACING IT WITH A NEW ARTICLE 7.14 ENTITLED "BUILDING ADVISORY BOARD OF APPEALS"; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Mayor and City Council have the authority to adopt and to amend, by ordinance, building and safety technical codes of the City of Bisbee; and,

WHEREAS, the City desires to have a board of appeals to hear matters related to the City's various technical codes and to establish the duties and obligations of such a board; and,

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to amend the City Code to establish an Advisory Board of Appeals for those technical codes provided for in Chapter 7 of the City Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:**

**Section 1.     In General.**

The City of Bisbee Code is hereby amended by repealing and replacing Chapter 7 Building, Article 7.14 Boards of Appeal with a new Article 7.14 entitled "Building Advisory Board of Appeals" as follows:

### **CHAPTER 7 BUILDING**

#### **ARTICLE 7.14     BUILDING ADVISORY BOARD OF APPEALS**

##### **7.14.1 Creation of a Building Advisory Board of Appeals for Technical Codes**

In order to hear and decide appeals of orders, decisions or determinations made by the Building Official, Inspector, or Fire Chief relative to the application and interpretation of the various adopted technical codes in Chapter 7, there shall be and is hereby created a Building Advisory Board of Appeals consisting of seven (7) members, appointed by the Mayor with the consent and approval of the City Council, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the City of Bisbee. Each member of the Board shall reside within the City Limits of the City of Bisbee. The intent shall be to have at least three members of the Board who are an architect, an engineer, and a general contractor. The City Clerk shall be an ex-officio member of and shall act as secretary to the Board but shall have no vote on any matter before the Board. The Board shall adopt rules of procedure for conducting its business.

**7.14.2 Appeals Process**

All appeals must be taken within twenty (20) days of the issuance of the order, decision or determination of the Building Official, Inspector, or Fire Chief by giving written notice of appeal to the City Clerk. The intent of the appeal process is not to waive or set aside a technical code requirement; rather, it is intended to provide a means of reviewing a decision on an interpretation or application of a technical code or to review the equivalency of protection to the technical code requirements. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Official, Inspector, or Fire Chief certifies to the Board after a notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. The proceedings then shall not be stayed otherwise than by a restraining order issued by a court of record of competent jurisdiction or a restraining order granted by the Board.

**7.14.3 Action of the Board**

The Board shall have no authority relative to interpretation of the administrative provisions of the adopted technical codes, nor shall the Board be empowered to waive requirements of the adopted technical codes. The Board may modify or reverse any decision or order of the Building Official, Inspector, or Fire Chief in the interpretation or enforcement of a technical code in any particular case, when and only when, in the Board's opinion strict application and enforcement would result in peculiar and exceptional practical difficulties to, or exceptional undue hardships upon, or manifest injustice to, an appellant, and would be contrary to the spirit and purpose of the technical code, or the public interest, or when it is determined that the true intent has been incorrectly interpreted. Mere economic hardship or a hardship which is self-created shall not be considered a valid or sufficient basis for granting a reversal or modification of the decision or order. The Board shall promptly render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official, Inspector, or Fire Chief as may be applicable. A decision of the Board shall be final with no further appeal available to City boards or officials. Persons wishing further review must file their appeals in Superior Court.

**Section 3. Providing for Repeal of Conflicting Ordinances.**

All ordinances and parts of ordinances in conflict with this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

**Section 4. Providing for Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**Section 5. Effective Date.**

This Ordinance shall be effective from 30 days after the date written below.

**ORDINANCE O-24-14**

**PASSED, APPROVED AND ADOPTED** by the Mayor and Council of the City of Bisbee on this 2nd day of April, 2024.

**APPROVED:**

  
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Ken Budge, Mayor

**ATTEST:**

  
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Ashlee Coronado, City Clerk

**APPROVED AS TO FORM:**

  
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Joseph D. Estes, City Attorney