

**RESOLUTION 2007-36**

**A RESOLUTION ESTABLISHING AN APPEALS BOARD FOR THE CURRENT BUILDING INSPECTION PROGRAM OF THE TOWN OF SILVER CITY**

**WHEREAS**, the Municipal Code of the Town of Silver City provides for the regulation of construction within the Town and other areas within the Town's planning and platting jurisdiction; and

**WHEREAS**, the Municipal Code of the Town of Silver City provides for the hiring of a Building Inspector who must be certified by the Construction Industries Division of the State of New Mexico and certified by the International Code Congress; and

**WHEREAS**, the Construction Industries Division of the State of New Mexico requires that construction in New Mexico meet the standards of the International Building Code 2003, which is a current code of the International Code Congress; and

**WHEREAS**, the International Building Code 2003 provides for the adoption of a Board of Appeals to hear appeals to decisions of the building official brought by applicants for building permits; and

**WHEREAS**, the composition, duties, powers, and procedures of this Board of Appeals are specified in Appendix B of the International Building Code 2003.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Silver City hereby authorizes the creation of a Board of Appeals to hear appeals to the decisions of the Building Inspector in the manner specified in Appendix B of the International Building Code 2003.

**PASSED, APPROVED, AND ADOPTED** this \_\_13th\_\_ day of \_\_Nov.\_\_, 2007.

/s/

\_\_\_\_\_  
JAMES R. MARSHALL, MAYOR  
Town of Silver City

ATTEST:

/s/

\_\_\_\_\_  
Ann L. Mackie, Town Clerk

## APPENDIX B

# BOARD OF APPEALS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION B101 GENERAL

**B101.1 Application.** The application for appeal shall be filed on a form obtained from the building official within 20 days after the notice was served.

**B101.2 Membership of board.** The board of appeals shall consist of persons appointed by the chief appointing authority as follows:

1. One for five years; one for four years; one for three years; one for two years; and one for one year.
2. Thereafter, each new member shall serve for five years or until a successor has been appointed.

The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.

**B101.2.1 Alternate members.** The chief appointing authority shall appoint two alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

**B101.2.2 Qualifications.** The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

1. Registered design professional with architectural experience or a builder or superintendent of building construction with at least ten years' experience, five of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering experience
3. Registered design professional with mechanical and plumbing engineering experience or a mechanical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
4. Registered design professional with electrical engineering experience or an electrical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
5. Registered design professional with fire protection engineering experience or a fire protection contractor with at least ten years' experience, five of which shall have been in responsible charge of work.

**B101.2.3 Rules and procedures.** The board is authorized to establish policies and procedures necessary to carry out its duties.

**B101.2.4 Chairperson.** The board shall annually select one of its members to serve as chairperson.

**B101.2.5 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**B101.2.6 Secretary.** The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**B101.2.7 Compensation of members.** Compensation of members shall be determined by law.

**B101.3 Notice of meeting.** The board shall meet upon notice from the chairperson, within 10 days of the filing of an appeal or at stated periodic meetings.

**B101.3.1 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.

**B101.3.2 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**B101.3.3 Postponed hearing.** When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**B101.4 Board decision.** The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members.

**B101.4.1 Resolution.** The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the building official.

**B101.4.2 Administration.** The building official shall take immediate action in accordance with the decision of the board.