

TITLE 2: NATURAL RESOURCES
DIVISION 7: BUILDING AND ZONING CODES

§ 7125. Building Safety Code Appeals Board.

(a) *Creation of Board.* A Building Safety Code Appeals Board (“board”) is established in the Commonwealth government, consisting of five persons who shall be appointed by the Governor with the advice and consent of the Senate.

(b) *Purpose.* The board is established to hear and rule on appeals brought by any persons aggrieved by the decisions of the building safety official. The board may grant modifications of the code pursuant to 2 CMC § 7114.

(c) *Composition.* The board shall consist of a licensed architect, a licensed engineer, the president of the Commonwealth of the Northern Mariana Islands Contractors Association or his or her designee, the president of the Chamber of Commerce or his or her designee, and a member of the community at large who shall have no personal financial interest in the construction industry in the Commonwealth. The members shall choose a chairman and vice-chairman.

(d) *Term.* Members shall serve for a term of five years beginning from their date of confirmation by the Senate, except the president of the Commonwealth of the Northern Mariana Islands Contractors Association or designee and the president of the Chamber of Commerce or designee shall serve until replaced in their respective positions by their appointing authority. The term of a member appointed by the Governor to fill a vacancy shall be five years beginning from the date of confirmation by the Senate.

(e) *Compensation.* The members of the board shall receive compensation and reimbursement of expenses pursuant to 1 CMC § 8247.

(f) *Meetings.* The board shall meet as necessary to discharge its responsibilities. The chairman or any two members may call a meeting. A quorum of three members shall be required to convene a meeting.

Prior public notice of meetings shall be made in at least one medium of general circulation in the Commonwealth for one week prior to the meeting. Meetings of the board shall be conducted at a public location and be open to the public.

The board shall adopt rules of procedure necessary for the conduct of its operations and meetings, including procedures for public notice of meetings and decisions of the board. All decisions of the board shall be made at public meetings by at least three votes. A written record of all board decisions, including the reasons for such decisions, shall be kept and shall be available for public inspection.

(g) *Appeals From Final Determinations of the Building Official.*

(1) Any person adversely affected or aggrieved by a determination of the building safety official may appeal such decision to the board. The appeal shall be filed within 15 days of the decision. The fee for filing an appeal shall be established by law.

(2) Within 90 days from the filing of a complete application for an appeal, the board shall, in a written decision with a statement of reasons, uphold, modify, or reverse the determination of the building safety official. Procedure on appeal shall be in accordance with the Administrative Procedure Act, 1

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CMC § 9101 et seq. The board shall uphold the determination of the building safety official unless it is:

- (i) Clearly erroneous under the building safety code;
- (ii) In violation of applicable constitutional or statutory provisions;
- (iii) Arbitrary or capricious; or
- (iv) Not adopted in accordance with required procedures.

(3) In the event the board fails to make a decision within 90 days, the appellant may petition for and receive a court order directing the board to comply with the code. An applicant who receives such relief shall also be awarded his costs of litigation and attorneys fees.

(h) *Appeal of Board Decision.* Any party aggrieved by the decision of the board may obtain further review pursuant to the Administrative Procedure Act (1 CMC § 9101 et seq.).

(i) *Staff.* Subject to budgetary appropriation, the board may employ staff as required to assist it in performing its duties.

Source: PL 6-45, § 1 (§ 7125); amended by PL 8-8, § 3.