



BOARD OF APPEALS (BOARD OF REVIEW - BUILDING DEPARTMENT)

BOARD OF REVIEW MEETING AGENDA THURSDAY, FEBRUARY 24, 2022 – 9:00 AM

MEETING INFORMATION - This meeting will be held online due to the COVID-19 virus. To join the meeting: <https://zoom.us/join>, Meeting ID: 814 7820 9768, Password: 439935; Audio only: Dial 17207072699 or 1-253-215-8782 (long-distance rates may apply).

- 1. 9:00 A.M. CALL TO ORDER**
- 2. REVIEW AND DISCUSSION OF THE BOARD OF APPEALS BY-LAWS**

Discussion of Bylaws, San Miguel County Building Board of Appeals

Recommended Motion:

MOTION to amend the Bylaws of the Board of Appeals as discussed and change the name of the board to the Board of Review as outlined in C.R.S. §30-28-206

[Bylaws.unsigned.pdf](#)

[Board of Review outline.pdf](#)

- 3. ELECTION OF OFFICERS**

Article IV of the Board of Appeals Bylaws states that the officers of the BOA shall consist of the Chair, Vice-Chair, and Secretary. The County Building Official as Ex Officio member shall act as Secretary but shall have no vote on any matter before the BOA.

The officers shall be elected at an annual meeting of the BOA and the term shall be for one year.

MOTION to nominate _____ as Chair

Recommended Motion: MOTION to nominate _____ as Vice-Chair

- 4. BUILDING DEPARTMENT AND BOARD OF REVIEW COMMENTS**
- 5. ADJOURN**

NOTE: This agenda is subject to change, including the addition of items up to 24 hours in advance or the deletion of items at any time. All times are approximate. This meeting is considered a San Miguel County Committee Meeting.

If special accommodations are necessary per ADA, contact 970-728-3844, via email bocc@sanmiguelcountyco.gov prior to the meeting.

The official, designate posting place for all meeting notices will be online at <https://www.sanmiguelcountyco.gov/liveagenda>. Use this link to view the live agenda with any last-minute changes. To be automatically notified, please sign up at www.sanmiguelcountyco.gov, sign-up for alerts and follow the prompts.



AGENDA ITEM

TITLE:

Discussion of Bylaws, San Miguel County Building Board of Appeals

Presented by:

Time needed:

PREPARED BY:

Nancy Hrupcin, Building

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:

[Bylaws.unsigned.pdf](#)

[Board of Review outline.pdf](#)

Description:

BYLAWS

SAN MIGUEL COUNTY BUILDING BOARD OF APPEALS

ARTICLE I

PURPOSE

The purposes for which the Board is formed are set forth in Colorado Revised Statutes 30-28-206 and 30-28-207 Board of Review and currently adopted Uniform Building Code. This Board of Review/Board of Appeals will be hereinafter referred to as the Building Board of Appeals. (Exhibit A - Current Statutes and Exhibit B - Current Uniform Building Code located in Building Officials office)

ARTICLE II

NAME

The name of the organization shall be the San Miguel County Building Board of Appeals, hereinafter referred to as "BOA".

ARTICLE III

MEMBERSHIP AND TERMS

The BOA shall be comprised of five regular members, one alternate member and the Building Official as Ex Officio member. Regular members shall be County residents. Vacancies on the BOA shall be filled by the County Board of Commissioners. Terms of the regular members at the time of initial appointment shall be: two members for two years, and three members for three years. Thereafter, all terms shall be two years. Alternates shall have a term of one year.

ARTICLE IV

OFFICERS

The officers of the BOA shall consist of the Chair, Vice Chair and Secretary. The County Building Official as Ex Officio member shall

act as Secretary but shall have no vote on any matter before the BOA.

- A. The officers shall be elected at an annual meeting of the BOA by its membership.
- B. The terms of officers shall be for one year.
- C. Vacancies occurring in any office shall be filled for the unexpired term by a person elected by a majority vote of the remaining members of the BOA.

ARTICLE V

DUTIES OF OFFICERS

- A. The Chair shall preside at all meetings of the BOA at which he/she may be present; shall perform such other duties as may be presented or assigned by the BOA; shall coordinate the work of the BOA in order that the purposes may be promoted and shall sign all documents as specifically authorized by the BOA.
- B. The Vice Chair shall perform the duties of the Chair in the absence or disability of that office and shall perform other duties as assigned by the Chair or the BOA.
- C. The Secretary shall be responsible for the minutes of all meetings. Minutes are required to be made and kept for all regular and special BOA meetings. Such minutes and other BOA records are subject to public inspection. The minutes of any meeting during which there is an executive session must reflect the general topic of the discussion of the executive session. A verbatim taped record shall be made of all hearings conducted. An interested party may request that a verbatim transcript of a specific hearing be prepared. Such request shall be made in writing to the building official. The party requesting preparation of a transcript shall be responsible for the costs associated with its preparation and shall post a deposit with the County to cover such costs in an amount set by the Building Official.
- D. The County Attorney shall serve as legal counsel to the BOA. Should a conflict of interest prevent the County Attorney from providing the BOA with legal counsel, outside special counsel may be retained at County expense.

ARTICLE VI

MEETINGS

- A. All meetings of the BOA shall be open to the public. The BOA may adopt an annual regular meeting schedule. This schedule will be both published and posted in the same manner as the Board of County Commissioners regular meeting schedule. An annual organizational meeting shall be held during the month of January, at which time officers shall be elected and a regular meeting schedule may be adopted for the calendar year.
- B. Special meetings may be called by the Chair or a majority of the BOA members provided that written notice is posted in designated locations at least twenty-four hours prior to the meeting. The public place or places for posting such meeting notices shall be as designated by the BOA, subject to compliance with applicable legal requirements. The posting is to include specific agenda information where possible. Except for emergency meetings there shall be at least one week's prior notice of any BOA meeting, which shall be published once in the county legal newspaper. The BOA may, in its discretion, direct that additional notice be given to specific persons or entities. Notice of emergency meetings shall be posted at least twenty-four hours in advance of such meeting in the manner prescribed by state law. The Chair may call an emergency meeting at the request of the Building Official or a majority of the BOA only for good cause.
- C. A quorum shall consist of a simple majority of the members (3 out of 5 members). The Alternate member may participate as necessary to make a quorum, and may replace any absent member.
- D. All special and regular meetings of the BOA at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. Parties in interest for matters on appeal from the Building Official shall be given notice, in accordance with applicable code and/or legal requirements, of BOA hearings pertaining to their appeal.
- E. Executive sessions can only be legally authorized by the affirmative vote of two-thirds of the quorum present. No final

decision of formal action of any type can be legally made in an executive session. Executive sessions may be held to consider:

1. The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.
2. Conferences with an attorney for the BOA for purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session is insufficient to satisfy this requirement.
3. Matters required to be kept confidential by state or federal law, rules, or regulation. Specialized details of security arrangements or investigations.
4. Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators.
5. Most personnel matters pertaining to BOA members.

Prior to the time the members of the BOA convene in executive session the Chair of the BOA shall announce the general topic of the executive session.

- F. Motions shall be made, seconded by any BOA member, and shall be voted on by all BOA members present on all items of official business. A majority vote of the members at a meeting, at which a quorum is present, shall be required to pass any official motion; any motion receiving less than a majority vote in favor shall fail.
- G. The BOA shall make the determination of whether a conflict of interest may exist, following appropriate discussion, in accordance with the Colorado Code of Ethics. Initial responsibility for declaring the existence of a conflict of interest shall lie with individual BOA members. However, the final determination of the existence of a conflict of interest shall lie with the BOA. In making such determinations both members and the BOA shall be guided by the Colorado Code of Ethics, including, but not limited to, Section 24-18-109, C.R.S., which provides that a local government official shall not: "Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative

or agent." and "A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter."

In case of a potential conflict of interest with respect to an item or issue before the BOA, the member should state his/her conflict and the general nature of same, before any discussion of the issue.

ARTICLE VII

ATTENDANCE

Upon a vote of a majority of the BOA members, a member who fails to attend two scheduled meetings, unless previously excused by the Chair, may be recommended for removal by the Board of County Commissioners.

ARTICLE VIII

POWERS AND DUTIES

The Building Board of Appeals shall have those powers and duties as provided by Colorado Revised Statutes, Chapter 30, Article 28, Sections 206 and 207, currently adopted Uniform Building Code, and any other currently adopted County Codes and/or regulations within the Building Official's jurisdiction.

ARTICLE IX

AMENDMENTS TO BYLAWS

Any amendments to the Bylaws shall be presented in writing to the BOA, who shall, at a subsequent meeting upon majority vote, approve or not approve.

ARTICLE X

GOVERNMENTAL IMMUNITY APPLICABILITY

Duly appointed members of the San Miguel County Building Board of Appeals shall be considered to be "Public Employees" of San Miguel County, as defined at 24-10-103(4)(a) Colorado Revised Statutes, for purposes of the Colorado Governmental Immunity Act during the performance of their official duties and when acting within the scope of their employment. 24-10-110(1) Colorado Revised Statutes provides that San Miguel County shall be liable for the costs of the defense of any of the San Miguel County Building Board of Appeals members when the claim against the BOA member(s) arises out of injuries sustained from an act or omission of such BOA member occurring during the performance of their duties and within the scope of their employment, except when such act or omission is willful and wanton. San Miguel County is also liable for the payment of all judgments and the settlement of claims brought against San Miguel County Building Board of Appeals members where the claim against the BOA member arises out of injuries sustained from an act or omission of such employee occurring during the performance of their duties and within the scope of their employment, except where such act or omission is wanton and willful, or where sovereign immunity bars the claim against the entity, provided the BOA member does not settle or compromise the claim without San Miguel County's consent.

APPROVED ON _____ by the Board of Appeals.

SAN MIGUEL COUNTY BUILDING BOARD OF APPEALS

Chair

ATTEST:

Deputy Clerk, Marie A. Thomas

APPROVED ON _____ by the San Miguel County Board of Commissioners.

SAN MIGUEL COUNTY BOARD OF COMMISSIONERS

Chair

ATTEST:

Deputy Clerk, Marie A. Thomas

BUILDING BOARD OF REVIEW

Responsibilities

To hear and decide appeals of orders, decisions or determinations made by the Chief Building Official relative to the application and interpretation of the adopted building code.

Membership

Five member board with 2 year terms.

Staff Liaison

The Chief Building Official is the liaison for this board

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