

ORDINANCE NO. 774

AN ORDINANCE ESTABLISHING A BUILDING CODE BOARD OF APPEALS.

WHEREAS, the City has adopted by reference codes and standards relating to the regulation of new construction, alteration and repair of all new and existing structures within the City, along with all plumbing, mechanical and installations therein or in connection therewith; and

WHEREAS, each of these codes utilize an appeals board to hear and determine appeals of decisions of the building official or claims that the true intent of the code have been incorrectly interpreted; and

WHEREAS, Section 11-11(a) of the City of Dacono Home Rule Charter authorizes the City Council to establish by ordinance such boards and commissions as it determines necessary or desirable; and

WHEREAS, the City Council finds and determines it is both necessary and desirable that a Building Code Board of Appeals be created, as set forth herein; and

WHEREAS, the City Council further finds that it is often difficult to recruit members to fill the City's existing boards and commissions, and that therefore the existing Board of Adjustment shall sit as the Building Code Board of Appeals whenever such a board is required pursuant to the building codes adopted by the City; and

WHEREAS, in order to ensure that members of the Board of Adjustment have the requisite experience and training to serve in matters related to the building codes, the City shall provide periodic training for the members regarding such codes, as is determined appropriate by the City Administrator.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Chapter 18 of the Dacono Municipal Code is hereby amended to add a new Section 18-46 to read as follows:

Sec. 18-46 Appeals.

(a) There is hereby created the Building Code Board of Appeals. The purpose of the Board is to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the building codes, and amendments thereto, as adopted from time to time by reference within this Chapter 18.

(b) The Board of Adjustment shall act as the Building Code Board of Appeals whenever such a board is required by the codes adopted within this Chapter 18, other ordinances of the City, or by state or federal law. The building official 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. Three (3) members of the Board shall constitute a quorum. In rendering any decision, not less than three affirmative votes shall be required.

(c) The Board may adopt reasonable rules and regulations not inconsistent with this ordinance for conducting its business, meetings, and deliberations.

(d) Any person, firm, or corporation aggrieved by a final decision of the building official regarding the suitability of alternate materials, methods of construction, or regarding the technical application and interpretation of the building codes adopted by reference within this Chapter 18 may appeal the decision to the Board by filing an application for appeal within thirty (30) days after the date of the decision or other action causing the appeal. No appeal shall be accepted or heard if it is filed after such date. Application for an appeal hearing before the Board shall include a concise statement of the decision being appealed, the reasons for the appeal, and the relief being sought from the Board. The Board may designate application forms for such appeals. Upon the receipt of a complete application for appeal, the Board shall schedule a hearing to be held within thirty (30) days after the filing of the application for appeal, unless the applicant consents to a later date.

(e) At hearings, all witnesses shall be sworn and the Chairperson will utilize such procedures as the Board finds will ensure fairness and efficiency. The Board shall not be required to observe formal rules of evidence, but may consider any testimony or other evidence the Board finds reasonably reliable and calculated to aid the Board in reaching an accurate determination of the issue involved. Rulings on questions of procedure, admissibility of evidence, and exhibits will be made by the Chairperson and will stand unless objected to by a member of the Board, in which event the question will be decided by a majority vote of the members of the Board present.

(f) The Board shall have the authority to review any written final decision of the building official regarding the suitability of alternate materials, methods of construction, or regarding the technical application and interpretation of the building codes adopted by reference, and any amendments thereto, within this Chapter 18. The Board shall also be authorized to issue advisory opinions and policies regarding such matters at the request of the building official. The Board shall not have the authority to interpret any administrative provisions of any of the Codes adopted within this Chapter 18, or to waive requirements of any such code, nor shall the

Board have the authority to recommend decreasing public safety or fire-resistive standards set forth in any section of such codes. A decision of the Board shall not be considered a precedent for future decisions of the building official. The Board shall act in each instance based upon the facts presented in the appeal.

(g) The decision of the Board shall be final on the date it is made and signed by the Board. Any appeal of a Board decision shall be to the appropriate court pursuant to Colorado Rule of Civil Procedure 106(a)(4).

Section 2. Section 18-7 of the Dacono Municipal Code, concerning appeals of building permits, is hereby repealed.

Section 3. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED IN FULL this 8th day of April, 2013.

PUBLIC HEARING AND SECOND READING WILL BE THE 22nd day of April, 2013, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this 22nd day of April, 2013.

CITY OF DACONO, COLORADO



Charles Sigman, Mayor

ATTEST:



Valerie Taylor, City Clerk

Summary of Ordinance No. 774, “**AN ORDINANCE ESTABLISHING A BUILDING CODE BOARD OF APPEALS**” Establishes the appeals board required by the building and life-safety codes adopted by the City, provides the Board of Adjustment shall serve as the Building Code Board of Appeals whenever such a board is required, and establishes requirements for initiating and hearing appeals.