

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: M_S
DEPUTY RECORDER
1966 PE3

P0230
PIMA CO CLERK OF THE BOARD
PICKUP



DOCKET: 12885
PAGE: 5947
NO. OF PAGES: 12
SEQUENCE: 20061741173
09/08/2006
ORDIN 17:30
PICKUP
AMOUNT PAID \$ 0.00

ORDINANCE NUMBER 2006- 63

AN ORDINANCE OF THE PIMA COUNTY BOARD OF SUPERVISORS, PIMA COUNTY, ARIZONA, RELATING TO PLANNING AND ZONING AND BUILDING SAFETY, REPEALING ESTABLISHED ZONING ENFORCEMENT RULES OF PROCEDURE AND ADOPTING NEW ZONING AND BUILDING CODE ENFORCEMENT RULES OF ADMINISTRATIVE PROCEDURE IN ACCORDANCE WITH A.R.S § 11-807 AND 11-808(E) & (F).

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. That Ordinance 1985-189 is hereby repealed.

SECTION 2. That Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure, attached as Exhibit A, are hereby adopted.

SECTION 3. This ordinance shall become effective on December 1, 2006.

PASSED AND ADOPTED by the Board of Supervisors of Pima County, Arizona

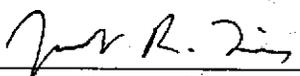
this 5th day of September, 2006.


Chairman, Board of Supervisors

ATTEST:


Clerk, Board of Supervisors

APPROVED AS TO FORM:


Deputy County Attorney


Director, Pima County Department
of Development Services

11-09-06 09:00:41

2

Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure

Table of Contents

Chapter 1 Administration	1
Section	
101	Scope
102	Definitions
Chapter 2 Commencement of Action	2
Section	
201	Commencement of Action
202	Zoning Code or Building Code Enforcement Action
203	Sufficiency of Complaint
204	Amending Complaint
205	Appearance and Entry of Plea
206	Notice of Hearing and of Right to Counsel or Other Designated Representative
207	Representation for the County
Chapter 3 Conduct of Hearing and Judgment	5
Section	
301	Discovery
302	Continuance
303	Oath
304	Questioning of Witnesses
305	Rules of Evidence
306	Witnesses
307	Order of Proceedings
308	Record of Hearing
309	Default by County
310	Default by Defendant
311	Setting Aside Default Judgment
312	Responsibility
Chapter 4 Appeal of Hearing Officer Decision	8
Section	
401	Notice of Right to Appeal
402	Right to Appeal
403	Notice of Appeal
404	Time for Filing Appeal
405	Appeals to the Board of Supervisors
406	Opinion from County Attorney

Pima County Zoning Code and Building Code Enforcement Rules of Administrative Procedure

Chapter 1 Administration

101 Scope

These rules shall apply in all cases involving the adjudication of zoning and building code violations before the zoning or building code enforcement administrative Hearing Officer (“Hearing Officer”), as established pursuant to A.R.S. § 11-808(E) and the Pima County Zoning Code §§ 18.95.030 and 18.101.060 and the Pima County Building Code in § 15.04.050.

102 Definitions

Building Code. Any building-related codes adopted and/or enforced by Pima County.

Building Official. The Chief Building Official or his or her representative.

Chair of the Board of Supervisors. The chair or, in the absence of the chair, the person acting as chair.

Complaint. Zoning Code or Building Code Enforcement Citation.

Counsel. An attorney licensed to practice law in the State of Arizona.

County. Pima County.

Inspector. Either Zoning Inspector or Building Official.

Other designated representative. A person over eighteen years of age, other than an attorney, authorized in writing by the defendant to represent the defendant in proceedings before the Hearing Officer. The written authorization shall be in a form sufficient to satisfy the Hearing Officer that the person has in fact been authorized to act on the defendant’s behalf and that the defendant understands and agrees to be bound by actions taken by the other designated representative in proceedings before the Hearing Officer.

Parties. The defendant and the County.

Zoning Inspector. The Chief Zoning Inspector or his or her representative.

206.2 Failure to Notify

Absent extraordinary circumstances, failure of the defendant to timely notify the Hearing Officer of an election to be represented by counsel or other designated representative constitutes a waiver of the right to counsel or other designated representative.

207 Representation for the County

The County need not be represented by counsel at the hearing of Complaint. Absent extraordinary circumstances, the County's right to be represented by counsel is waived unless, at least five calendar days prior to the hearing date, the County notifies the Hearing Officer and the defendant or defendant's counsel or other designated representative, at the address set forth on the Complaint or any different address provided by the defendant or defendant's counsel or other designated representative, of the County's election to be represented by counsel.

audiotape is necessary, a transcript shall be prepared at the County's expense. Only if the Board of Supervisors adjudges the record insufficient, or not in proper condition to enable the Board of Supervisors to adjudicate the issues, shall it grant a trial de novo, to be conducted in accordance with the procedures established for hearings before the Hearing Officer, and not subject to the provisions of sections 405.4, 405.6 and 405.7 below, relating solely to appeal.

405.2 Transmission of Record to the Board of Supervisors.

405.2.1 Upon receipt of the notice of appeal to the Board of Supervisors, the Hearing Officer shall, within 30 calendar days, prepare and transmit the record to the Clerk of the Board of Supervisors.

405.2.2 The parties may stipulate that the appeal may be heard on less than a complete record or upon stipulated facts. The designation of the stipulated record shall be in writing, filed with the Hearing Officer within 15 calendar days after the notice of appeal is filed.

405.2.3 Upon transmission of the record, the Hearing Officer shall send notice by mail to all parties stating that the record has been transmitted and that appellate memoranda are due within five business days.

405.3 Conduct on Board of Supervisors' Hearing.

The Chairman of the Board of Supervisors shall preside at all appeal hearings of the Board of Supervisors, and shall decide all procedural and evidentiary questions. Final decisions on the merits of a case shall be made upon motion and majority vote of the quorum. The Board of Supervisors shall apply the interpretation of the Code of the Chief Zoning Inspector or Chief Building Official (or of the Board of Adjustment, Technical Review Committee, or Building Codes Advisory Board, if applicable).

405.4 Appellate Memoranda to Board of Supervisors.

Either party may file a written memorandum within five business days after the filing of the record with the Clerk of the Board of Supervisors. No memorandum shall exceed five pages unless an exception is granted by the Chair of the Board of Supervisors.

405.5 Notice of Board of Supervisors' Hearing.

Upon receipt of the record from the Hearing Officer, the Clerk of the Board of Supervisors shall place the case on the Board of Supervisors' agenda and shall mail the parties written notice of the time and place of the hearing. The notice shall be mailed not less than five business days prior to the Board of Supervisors' meeting at which the matter will be heard.

405.6 Oral Argument on Appeal to Board of Supervisors.

Arguments on appeal to the Board of Supervisors shall be limited to five minutes for each party unless extended by the Chairman of the Board of Supervisors.

405.7 Disposition by the Board of Supervisors.

After consideration of an appeal, the Board of Supervisors may increase, decrease or modify any sanction imposed by the Hearing Officer and may:

- a. Affirm the findings and order of the Hearing Officer;
- b. Affirm in part and reverse in part; or
- c. Reverse the findings and order of the Hearing Officer.

405.8 Appeal to Superior Court from Decision of the Board of Supervisors.

Judicial review of the final decision of the Board of Supervisors shall be pursuant to Arizona Revised Statutes Title 12, Chapter 7, Article 6, A.R.S. § 12-901, et seq. See Pima County Code § 18.95.030(D)(2).

406. Opinion from County Attorney

The Hearing Officer or the Board of Supervisors may request a written opinion from the County Attorney regarding a substantive legal issue arising out of a pending zoning enforcement matter, if the legal issue has a bearing on how the Hearing Officer or Board of Supervisors should decide in a given case. A copy of the opinion shall be given to all parties, who shall have five business days to respond to or oppose the opinion. This rule shall not be construed to require disclosure of a legal opinion of the County Attorney given in an executive session regarding the legal validity of an actual or potential claim against the County, even if the claim arises out of zoning enforcement action taken pursuant to these rules.