

## ORDINANCE NO. \_\_\_\_-09

### AN ORDINANCE OF THE NAVAJO COUNTY BOARD OF SUPERVISORS, AMENDING ARTICLE 27 OF THE NAVAJO COUNTY ZONING ORDINANCE

**WHEREAS**, Article 27 of the Navajo County Zoning Ordinance, Ordinance No. Z90-1, sets forth the procedures for the Administration and Enforcement of the Zoning Ordinance; and

**WHEREAS**, the Development Services staff and the Planning and Zoning Commission have recommended that Article 27 be amended to improve efficiency and effectiveness in the enforcement of the Zoning Ordinance; and

**WHEREAS**, following a duly noticed public hearing held this date, the Board of Supervisors finds that the recommended amendment of Article 27 is in the public interest and should be approved,

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Supervisors that Article 27 of the Zoning Ordinance is hereby deleted in its entirety and replaced with the following new Article 27:

#### **ARTICLE 27 - ADMINISTRATION AND ENFORCEMENT**

##### **Section 2701 - Duties**

It shall be the duty of the Deputy Director of Public Works for Planning and Zoning, the Code Enforcement Officers, Building Inspectors, Navajo County Sheriff and all other Navajo County officials charged with the enforcement of the law to enforce all provisions of this Ordinance and the Navajo County Building and Safety Codes. As used herein, "Building and Safety Codes" means the codes adopted pursuant to Arizona Revised Statutes, Title 11, Chapter 6, Article 3.

The Deputy Director of Public Works for Planning and Zoning, as appointed by the Board of Supervisors, shall be and shall have all the authority of the "County Zoning Inspector" as provided in Section 11-808(A) of the Arizona Revised Statutes. The Code Enforcement Officers and Building Inspectors, as appointed by the Board of Supervisors, shall be and shall have all the authority of "Deputy Zoning Inspectors" as provided in Section 11-808(A) of the Arizona Revised Statutes

##### **Section 2702 - Applications and Permits**

The Deputy Director of Public Works for Planning and Zoning and staff shall receive applications and issue permits required by this Ordinance and the Building and Safety Codes. The Code Enforcement Officers and Building Inspectors shall examine premises where permits are to be issued or were issued and shall make inspections to ensure compliance with this Ordinance and the Building and Safety Codes.

##### **Section 2703 - Violations / Inspections**

A Code Enforcement Officer or Building Inspector shall investigate alleged violations of this Ordinance and the Building and Safety Codes and is authorized to issue such notices of violation, citations or complaints as may be required to enforce the provisions of this Ordinance and the Building and Safety Codes. The provisions of this Ordinance and the Building and Safety Codes shall normally be enforced in response to citizen complaints, but complaints may also be initiated

by the Board of Supervisors or the Deputy Director of Public Works for Planning and Zoning. Citizen complaints may be made anonymously, and the names of citizen complainants shall not be disclosed without their prior consent. A Code Enforcement Officer or Building Inspector, in the performance of duties imposed by law, shall have a right of reasonable access to all parcels of land subject to this Ordinance and the Building and Safety Codes.

#### **Section 2704 - Enforcement**

If a violation of this Ordinance or the Building and Safety Codes is found to exist, the Deputy Director of Public Works for Planning and Zoning shall, after reasonable efforts to achieve voluntary compliance have failed, consult with the County Attorney and initiate the appropriate enforcement action:

1. Administrative enforcement (Hearing Officer procedure) pursuant to A.R.S. §§ 11-808 and 11-866.
2. Nuisance abatement pursuant to A.R.S. § 11-268 and Article 24 of this Ordinance.
3. Civil enforcement (complaint for injunctive relief) in Justice Court or Superior Court.
4. Criminal prosecution pursuant to A.R.S. §§ 11-808 and 11-866 or other applicable statute(s).
5. Any other remedy authorized by law.
6. The pursuit of any of the foregoing enforcement actions shall not preclude other enforcement action(s) related to the same violation, facts or conditions; provided, however, that if an alleged violator is cited pursuant to the administrative enforcement procedure, the alleged violator shall not be subject to a criminal charge arising out of the same facts.

#### **Section 2705 - Administrative Enforcement (Hearing Officer)**

1. Pursuant to A.R.S. §§ 11-808 and 11-866, the office of the Navajo County Zoning Hearing Officer is hereby established.
2. One or more Zoning Hearing Officers shall be appointed by the Board of Supervisors to serve at the pleasure of the Board. A Hearing Officer may be an employee of Navajo County but shall not be an employee of the Public Works Department.
3. The Hearing Officer is authorized to hear and decide complaints alleging violations of this Ordinance, the Building and Safety Codes, and any other Navajo County ordinance or regulation specifically authorizing the Hearing Officer procedure.
4. In the performance of his or her duties, the Hearing Officer is authorized to administer oaths; issue subpoenas and summonses for the appearance of persons before the Hearing Officer; make any other orders necessary or appropriate for the determination and resolution of alleged violations; and, upon determining that a violation exists, to assess civil penalties as authorized by A.R.S. §§ 11-808 and 11-866 and this Ordinance or other applicable law.
5. The rules and procedures for administrative enforcement shall be set forth in Hearing Officer Rules and Procedures to be adopted and amended from time to time by resolution of the Board of Supervisors.

**Section 2706 - Penalties**

1. Pursuant to A.R.S. §§ 11-808 and 11-866, a violation of this Ordinance or the Building and Safety Codes is punishable upon conviction as a class 2 misdemeanor.
2. Pursuant to A.R.S. §§ 11-808 and 11-866, the Hearing Officer established pursuant to Section 2705 is authorized to assess, upon a determination of responsibility, a civil penalty not to exceed the maximum fine for a class 2 misdemeanor as then set by Arizona Revised Statute for each violation of this Ordinance or the Building and Safety Codes.
3. Each day that a violation exists and is proven constitutes a separate violation of this Ordinance or the Building and Safety Codes.
4. Pursuant to A.R.S. §§ 11-808 and 11-866, if any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used in violation of this Ordinance or the Building and Safety Codes, the Board of Supervisors, the County Attorney, the Deputy Director of Public Works for Planning and Zoning or any adjacent or neighboring property owner who is specially damaged by the violation, in addition to the other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent or abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use.
5. Upon a determination by the Hearing Officer or by a civil or criminal court that a violation of this Ordinance or the Building and Safety Codes exists, no building permit, septic permit, floodplain use permit or other permit or approval within the jurisdiction of Navajo County, the Navajo County Flood Control District or the Navajo County Public Health Services District shall be issued for the subject parcel until the violation has been cured or abated.

**SO ORDAINED** by the Navajo County Board of Supervisors at Holbrook, Arizona, on \_\_\_\_\_, 2009, by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays.

**NAVAJO COUNTY BOARD OF SUPERVISORS**

By \_\_\_\_\_  
Jerry Brownlow  
Chairman of the Board

Attest:

\_\_\_\_\_  
Melissa Buckley, Clerk of the Board