



County of Santa Cruz

0632- 633

BOARD OF SUPERVISORS

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JANET K. BEAUTZ
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 5/22/01

May 9, 2001

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: CHANGES TO ORDINANCE ESTABLISHING THE
BUILDING AND FIRE CODE APPEALS BOARD

Dear Members of the Board:

In attempting to fill a long-standing vacancy on the Building and Fire Code Appeals Board (Appeals Board), I asked staff to research the membership requirements for appointments to this body. As outlined in Chapter 2.100 of the County Code, a copy of which is attached as Exhibit A, the Appeals Board is established pursuant to the authority of Sections 17958 and 19957.5 of the Health and Safety Code, Section 31000.1 of the Government Code, and in compliance with Chapters 2.38, 7.92 and 12.12 of the Santa Cruz County Code.

The current provisions of Section 2.100.020 of the County Code provide for the appointment of five regular members, one representing each Supervisorial district in a specifically designated category, and three at-large alternate members, two of whom shall be persons with disabilities. There are currently four vacancies for Supervisorial District appointees and one vacancy for an at-large alternate position. Fortunately, the Appeals Board only meets on rare occasions.

Health and Safety Code Section 19957.5 has apparently been modified over the years (see Exhibit B) and now provides for a distinctly different composition of the Appeals Board, consisting of five members, as follows: two persons with disabilities, two persons experienced in construction, and one public member.

In order to bring the composition of our Appeals Board into conformance with State law, I would like to propose that the Board consider the following changes:

1. Revise Section 2.100.020 of the Santa Cruz County Code to provide for the appointment of five at-large members of the Building and Fire Code Appeals Board, as follows:

BOARD OF SUPERVISORS
May 9, 2001
Page 2

- a. Two persons with disabilities
- b. Two persons experienced in construction
- c. One public member

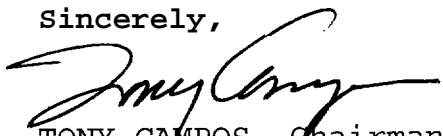
It is my hope that the designation of these positions as at-large appointees will alleviate past problems associated with certain categories of representation being specified for Supervisorial District appointees.

2. Revise Section 2.100.030 of the Santa Cruz County Code to provide terms of office of four years, to be staggered in accordance with subsection A2 of Section 2.38.100 of the County Code, with such staggering to be determined by lot.
3. Revise Section 2.100.040 (b) to reflect the correct name of the Planning Department.

In order to carry out the changes outlined above, I recommend that the Board take the following actions:

1. Consider the attached ordinance amending Sections 2.100.020, 2.100.030, and 2.100.040 (b) of the Santa Cruz County Code (Exhibit C) relating to the Building and Fire Code Appeals Board.
2. Direct the Chairman of the Board to write to the current members of the Building and Fire Code Appeals Board formally inviting them to apply for positions on the newly reconstituted Appeals Board.

Sincerely,


TONY CAMPOS, Chairman
Board of Supervisors

TC:ted
Attachments

cc: Planning Director; Fire Marshal; County Counsel;
Commission on Disabilities; Jeff Oberdorfer; Angelee Dion;
Celeste Graham

2550196

2.100.010

Chapter 2.100**BUILDING AND FIRE CODE APPEALS BOARD****Sections:**

- 2.100.010** **Established-Statutory authority.**
- 2.100.020** **Membership.**
- 2.100.030** **Term of office.**
- 2.100.040** **Organization and procedures.**
- 2.100.050** **Powers and duties.**

2.100.010 **Established-Statutory authority.**

The building and fire code appeals board, hereinafter referred to in this chapter as "board," is established pursuant to the authority of Sections 17958 and 19957.5 of the Health and Safety Code; Section 3 1000.1 of the Government Code; and in compliance with Chapters 2.38, 7.92 and 12.12 of the Santa Cruz County Code. (Ord. 3620 § 24, 1985; Ord. 3602 § 24, 1985; prior code § 3.51.010: Ord. 2280, 4/20/76; Ord. 2368, 12/7/76; Ord. 2518, 1/10/78)

2.100.020 **Membership.**

A. The board shall consist of five regular members and three alternate members, all of whom shall be residents of the county and be appointed by the board of supervisors. No member of the board shall be an employee of the county. Each supervisor shall nominate one person to serve as a regular member of the board in accordance with the following:

1. The supervisor of the first supervisorial district shall nominate a civil engineer.
2. The supervisor of the second supervisorial district shall nominate a general contractor.
3. The supervisor of the third supervisorial district shall nominate a plumbing contractor.
4. The supervisor of the fourth supervisorial district shall nominate an electrical engineer or electrical contractor.
5. The supervisor of the fifth supervisorial district shall nominate an architect.

B. In addition, three alternate members shall be appointed to the board on an at-large basis by the board of supervisors. Two of such alternate members shall be persons with disabilities and the other alternate member shall be a public member. The alternate members of the board shall serve in the place of three of the regular members of the board in all appeals filed by persons regarding actions taken by the building department of the county in the enforcement of the requirements of Sections 19955 et seq. of the Health and Safety Code relating to

access to public accommodations by persons with disabilities. Two regular members of the board shall be selected to sit on such appeals on a rotational basis among the five regular members in the order in which such members are listed in this section, beginning with the members of the board nominated by the supervisor of the first supervisorial district and by the supervisor of the second supervisorial district. No member of the appeals board shall be a county employee. (Ord. 4353 § 1, 1995; prior code § 3.51.030: Ord. 2280, 4/20/76; Ord. 2368, 12/7/76; Ord. 2518, 1/10/78)

2.100.030 **Term of office.**

Each member shall serve for a term of four years, commencing on April 1st of the year in which the member's nominating supervisor begins a full term. (Prior code § 3.51.040: Ord. 2280, 4/20/76)

2.100.040 **Organization and procedures.**

A. General Organization. The board shall comply in all respects with Sections 2.38.110 through 2.38.250 of this code.

B. County Staff. The building inspection division of the community resources agency shall provide staff support for the board for all building appeals, and the fire marshal shall provide staff support for the board for all fire code appeals. The building inspection chief or the fire marshal, as appropriate, shall serve as the administrative secretary to the board and prepare and mail the agendas, take minutes of each meeting, and perform other duties, as directed by the board.

C. Rules. The board shall include in its bylaws reasonable rules and regulations for conducting its investigations. Copies of the bylaws and all rules and regulations adopted by the board shall be made freely accessible to the public by the administrative secretary.

D. Decisions. All decisions and findings of the board shall be final, and submitted in writing to the appellant, the clerk of the board of supervisors, and the administrative secretary.

E. Meetings. Special meetings of the board shall be held from time to time as necessary to hear appeals, or upon request of the building inspection chief of the community resources agency, the fire marshal, or of a member of the board.

F. Exceptions to Policy Ordinance. Subsection E of this section is an exception to Sections 2.38.110 through 2.38.250 of the Santa Cruz County Code. (Prior code § 3.5 1.050: Ord. 2280, 4/20/76)

2.100.050 Powers and duties.

The board shall exercise the following responsibilities within the jurisdiction of the county; except that, for purposes related to the fire code, the board shall have no responsibilities with respect to the unincorporated area of the county, which lies within the jurisdiction of a fire protection district:

A. Determine the suitability of alternate building materials and methods and types of construction for use in the county;

B. Interpret the provisions of the fire code adopted by Chapter 7.92, the provisions of the uniform codes adopted by Chapter 12.10, and the provisions of the grading regulations adopted by Chapter 16.20 of the Santa Cruz County Code;

C. Consider recommendations to the board of supervisors concerning improvement of building, grading and fire regulations for the county;

D. Hear all appeals filed by persons pursuant to provisions of Chapters 7.92 and 12.12 of this code;

E. Hear all appeals filed by persons regarding actions taken by the building department of the county in the enforcement of the requirements of Sections 19955 et seq. of the Health and Safety Code relating to access to public accommodations by physically handicapped persons;

F. Render final decisions on all appeals brought before the board;

G. Exercise any other responsibilities which may be set forth in the boards bylaws and rules of investigation, approved by the board of supervisors. (Ord. 3620 §§ 25, 26, 1985; Ord. 3602 §§ 25 and 26, 1985; prior code § 3.51.020; Ord. 2280, 4/20/76; Ord. 2368, 12/7/76; Ord. 2518, 1/10/78)

§ 19956.5**HOUSING
Div. 13****Library References**

Municipal Corporations ~~§~~ 269(4), 661, 756,
761.
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations §§ 783, 794,
1048, 1686.

Notes of Decisions**Construction and application 1****1. Construction and application**

This section, when read in conjunction with
the 1971 amendments to Gov.C. § 4450 et seq.

requires all curbs and sidewalks to be constructed so as to be usable by physically disabled persons; such requirements apply to curbs and sidewalks intended for public use whether constructed with public or private funds and regardless of where located. 57 Ops.Atty.Gen. 186, 4-16-74.

§ 19957. Exceptions from literal requirements of standards and specifications in hardship, etc., cases

In cases of practical difficulty, unnecessary hardship, or extreme differences, a building department responsible for the enforcement of this part may grant exceptions from the literal requirements of the standards and specifications required by this part or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection are thereby secured.

(Added by Stats.1969, c. 1560, p. 3166, § 1, operative July 1, 1970.)

§ 19957.5. Local appeals board; jurisdiction: members: duties

(a) Every city, county, or city and county may appoint a local appeals board composed of five members to hear written appeals brought by any person regarding action taken by the building department of the city, county, or city and county in enforcement of the requirements of this part, including the exceptions contained in Section 19957.

(b) Two members of the appeals board shall be physically handicapped persons, two members shall be persons experienced in construction, and one member shall be a public member.

(c) The appeals board shall conduct hearings on written appeals made under subdivision (a) and may approve or disapprove interpretations of this part and enforcement actions taken by the building department of the city, county, or city and county. All such approvals or disapprovals shall be final and conclusive as to the building department in the absence of fraud or prejudicial abuse of discretion. The appeals board shall adopt regulations establishing procedural rules and criteria for the carrying out of its duties under this part.

(Added by Stats.1976, c. 700, p. 1714, § 1.)

ACCESS-PHYSICALLY HANDICAPPED

Part 5.5

§ 19959

0637

638

Notes of Decisions

Appeals board 1

1. Appeals board

The submission of a written appeal under this section regarding an action taken by a

local building department in enforcing building access requirements for physically handicapped persons does not require that an appeals board be appointed to consider the matter. 65 Ops.Atty.Gen. 83, 1-28-82.

§ 19958. Enforcement; building department defined

The building department of every city, county, or city and county shall enforce this part within the territorial area of its city, county, or city and county. The responsibility for enforcing Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code in its application under this part shall be by such building department within the territorial area of its city, county, or city and county.

"Building department" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection or construction, or both the erection and construction, of buildings.

(Added by Stats.1969, c. 1560, p. 3166, § 1, operative July 1, 1970.)

Library References

Words and Phrases (Perm.Ed.)

Notes of Decisions

Duties 1

1. Duties

Statutory responsibilities of the department of rehabilitation to educate the public and work with officials of cities to encourage them to make all buildings accessible to the handicapped does not impose a mandatory duty on the part of the department to inform city officers of the provisions of this section requiring

them to enforce the handicapped accessibility requirements and failure of the department to do so did not provide a basis for it to be required to indemnify city which was alleged by restaurant owner, who had been sued by physically handicapped person, to have breached its duty to prevent the construction of the restaurant in a manner which violated the law. State ex rel. Cal. Dept. of Rehabilitation v. Superior Court, Alameda County (App.1 Dist. 1982) 187 Cal.Rptr. 1, 137 C.A.3d 282.

§ 19958.5. Violations; injunction; district or city attorney, attorney general

The district attorney, the city attorney, the Department of Rehabilitation acting through the Attorney General, or the Attorney General may bring an action to enjoin a violation of this part.

(Added by Stats.1976, c. 869, p. 1979, § 3.)

Library References

Injunction §85(1).
WESTLAW Topic No. 212.
C.J.S. Injunctions § 162.

§ 19959. Alteration of existing public accommodations

Every existing public accommodation constructed prior to July 1, 1970, which is not exempted by Section 19956, shall be subject to the requirements

ORDINANCE NO. _____

0639

ORDINANCE AMENDING SECTIONS 2.100.020, 2.100.030, AND
2.100.040 (B) OF THE SANTA CRUZ COUNTY CODE RELATING TO
THE BUILDING AND FIRE CODE APPEALS BOARD

The Board of Supervisors of the County of Santa Cruz ordains
as follows:

SECTION I

Section 2.100.020 of the Santa Cruz County Code is hereby
amended to read as follows:

Section 2.100.020 Membership.

- ~~A. The board shall consist of five regular members and three alternate members, all of whom shall be residents of the county and be appointed by the board of supervisors. No member of the board shall be an employee of the county. Each supervisor shall nominate one person to serve as a regular member of the board in accordance with the following:~~
- ~~1. The supervisor of the first supervisorial district shall nominate a civil engineer.~~
- ~~2. The supervisor of the second supervisorial district shall nominate a general contractor.~~
- ~~3. The supervisor of the third supervisorial district shall nominate a plumbing contractor.~~
- ~~4. The supervisor of the fourth supervisorial district shall nominate an electrical engineer or electrical contractor.~~
- ~~5. The supervisor of the fifth supervisorial district shall nominate an architect.~~
- ~~B. In addition, three alternate members shall be appointed to the board on an at-large basis by the board of supervisors. Two of such alternate members shall be persons with disabilities and the other alternate member shall be a public member. The alternate members of the board shall serve in the place of three of the regular members of the board in all appeals filed by persons regarding actions taken by the building department of the county in the enforcement of the requirements of Sections 19955 et seq. of the Health and Safety Code relating to access to public accommodations by persons with disabilities. Two regular members of the board shall be selected to sit on such appeals on a rotational basis among the five regular members in the order in which such members are~~

~~listed in this section, beginning with the members of the board nominated by the supervisor of the first supervisorial district and by the supervisor of the second supervisorial district. No member of the appeals board shall be a county employee.~~

A. The board shall consist of five at-large members, who are residents of the County, appointed as follows:

1. Two members shall be persons with disabilities.
2. Two members shall be persons experienced in construction.
3. One member shall be a public member.

No member of the appeals board shall be a county employee.

SECTION II

Section 2.100.030 of the Santa Cruz County Code is hereby amended to read as follows:

Section 2.100.030 Term of office.

~~Each member shall serve for a term of four years, commencing on April 1st of the year in which the member's nominating supervisor begins a full term.~~

Each member shall serve for a term of four years, staggered in accordance with subsection A2. of Section 2.38.100 of this code, with such staggering to be determined by lot.

SECTION III

Section 2.100.040 Organization and procedures.

B. County Staff. The building inspection division of the ~~community resources agency~~ Planning Department shall provide staff support for the board for all building appeals, and the fire marshal shall provide staff support for the board for all fire code appeals. The building inspection chief or the fire marshal, as appropriate, shall serve as the administrative secretary to the board and prepare and mail the agendas, take minutes of each meeting, and perform other duties, as directed by the board.

SECTION IV

This ordinance shall take effect on the 31st day after the date of final passage.


PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2001, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

TONY CAMPOS, Chairman
Board of Supervisors

ATTEST: _____
Clerk of said Board

Approved as to form:



County Counsel

DISTRIBUTION: County Counsel
Planning Director
Fire Marshal
Commission on Disabilities

2550146

ORDINANCE NO. _____

ORDINANCE AMENDING SECTIONS 2.100.020, 2.100.030, AND
2.100.040 (B) OF THE SANTA CRUZ COUNTY CODE RELATING TO
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2. Two members shall be persons experienced in
construction.
3. One member shall be a public member.

No member of the appeals board shall be a county
employee.

SECTION II

Section 2.100.030 of the Santa Cruz County Code is hereby
amended to read as follows:

Section 2.100.030 Term of office.

Each member shall serve for a term of four years, staggered
in accordance with subsection A2. of Section 2.38.100 of this
code, with such staggering to be determined by lot.

SECTION III

Section 2.100.040 Organization and procedures.

B. County Staff. The building inspection division of the
Planning Department shall provide staff support for the board for
all building appeals, and the fire marshal shall provide staff
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PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2001, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

TONY CAMPOS, Chairman
Board of Supervisors

ATTEST: _____
Clerk of said Board

Approved as to form:



County Counsel

DISTRIBUTION: County Counsel
Planning Director
Fire Marshal
Commission on Disabilities

2550A6