

SUMMARY OUTLINE OF APPEAL PROCESS FOR THE BUILDING, ACCESSIBILITY, AND FIRE CODE APPEALS BOARD

1. Applicant or agent for owner receives written decision, order or determination from the Building Official or any other individual charged with the administration of the building codes (including Building, Plumbing, Electrical, Mechanical, Accessibility, and Energy codes) or from the County Fire Marshal relative to the application and interpretation of Chapter 7.92 of the County Code (Fire Code).
2. The applicant, a property owner, or any other person aggrieved by the decision can appeal any such act or determination by filing a written Notice of Appeal with the Planning Department within fourteen calendar days after service of such decision, order, or determination. The Notice of Appeal needs to identify the issue being appealed and explain the reasons why the appellant disagrees with the decision, order, or determination, and what relief they are seeking.
3. The filing fee established by Resolution of the Board of Supervisors must accompany the Notice of Appeal. The current appeal fee for all appeals other than Fire Code appeals is \$577.00. County Fire requires an at-cost deposit to file an appeal.
4. Planning or Fire staff determine if the appeal filing is valid by verifying that:
 - A) A Notice of Appeal has been filed within the fourteen-calendar day appeal period;
 - B) The required appeal fee has been paid; and
 - C) The appeal is within the subject matter jurisdiction of the Building, Accessibility, and Fire Code Appeals Board.
5. An appeal hearing must be scheduled no later than 30 days after receipt of any validly filed appeal. The appellant must be notified in writing of the time and place of the hearing at least 10 days prior to the hearing.
6. The Planning Department or County Fire will prepare a staff report that will be included as part of the agenda materials for the appeal hearing that summarizes the basis for the appealed decision, order or determination. As part of the report, staff will also provide any relevant documents related to the matter under appeal.
7. At the appeal hearing, which is a de novo hearing, the appellant shall, in the first instance, present evidence in support of the grounds enumerated in the appeal. The County official shall next present evidence in support of the decision, order, or determination. The Board should then take accept testimony from any member of the public that wishes to speak to the matter before the Board. At the conclusion of public comment, the appellant and the County Official shall each have one opportunity to rebut the evidence presented by the other, or presented during public comment.
8. The Board can take any one of the following actions upon hearing the appeal:

- Affirm the decision, order, or determination of the County Official without modification.
- Modify the decision, order, or determination of the County Official.
- Uphold the appeal and vacate the decision, order, or determination of the County Official.
- Continue consideration of the appeal if the Board determines that additional time is required to conclude its consideration of the matter. The Board can ask staff to provide additional information to the Board as necessary.

NOTE: The Building, Accessibility, and Fire Code Appeals Board shall have no authority to amend, waive, or otherwise modify the requirements of Title 12 of the County Code, the Uniform Codes adopted under Chapter 12.10, or Chapter 7.92 of the County Code. (County Code Section 12.12.010)

9. The Board's decision must be made in open session. The Board must render a decision in writing no later than 14 days following the opening of the appeal hearing, unless the matter is continued for further consideration. To accomplish this, staff shall prepare and send a letter to the appellant that reflects the Board's decision. This letter of decision will be sent to the appellant by first class mail. A copy will also be provided to the Clerk of the Board of Supervisors, and retained by the administrative secretary to the Appeals Board.
10. The decision of the Building, Accessibility and Fire Code Appeals Board on any appeal shall be final, unless further appealed to the Board of Supervisors in accordance with Sections 18.10.340 through 18.10.350 of the Santa Cruz County Code.

Chapter 2.100 BUILDING, ACCESSIBILITY, AND FIRE CODE APPEALS BOARD

- 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, accessibility, and fire code appeals board, hereinafter referred to in this chapter as "board," is established pursuant to the authority of Sections 19957.5 and 17920.5 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. (Ord. 3620 § 24, 1985: prior code § 3.51.010: Ord. 2280, 4/20/76; Ord. 2368, 12/7/76; Ord. 2518, 1/10/78; Ord. 5024, 11/25/08)

2.100.020 Membership.

A. The board shall consist of five at-large members appointed as follows:

1. Two members shall be persons specifically knowledgeable about issues related to accessibility for persons with disabilities;
2. Two members shall have at least five years experience in California as either a licensed contractor, a licensed civil engineer, or a licensed architect; and
3. One member shall be a public member.

B. Each member of the board:

1. Shall be qualified and specifically knowledgeable in the California Building Standards Codes and the Building and Fire Codes of the County of Santa Cruz; and
2. Shall be residents of the County; and
3. Shall not be a current employee of the County of Santa Cruz. (Ord. 4621 § 1, 6/5/01: Ord. 4353 § 1, 1995: prior code § 3.51.030: Ord. 2280, 4/20/76; Ord. 2368, 12/7/76; Ord. 2518, 1/10/78; Ord. 5024, 11/25/08)

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. (Ord. 4621 § 2, 6/5/01: 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.

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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 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. (Ord. 4621 § 3, 6/5/01; Prior code § 3.51.050: 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; (Ord. 5024, 11/25/08)

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)

Chapter 12.12 APPEAL PROCEDURES

- 12.12.010 Appeals to Building and Fire Code Appeals Board.**
- 12.12.020 Notice of Appeal.**
- 12.12.030 Effect of filing Notice.**
- 12.12.040 Contents of Notice.**
- 12.12.050 Setting for hearing.**
- 12.12.060 Action on appeals by Building Appeals Board.**
- 12.12.070 Appeals under the Uniform Code for the Abatement of Dangerous Buildings.**
- 12.12.080 Appeals to Board of Supervisors.**

12.12.010 Appeals to Building and Fire Code Appeals Board.

Any property owner or other person aggrieved, or any person whose interests are adversely affected by any of the following acts or determinations of the Building Official or of any other employee charged with the administration and enforcement of the provisions of Chapter 12.10 may appeal the decision, order or determination as hereunder provided to the Building, Accessibility, and Fire Code Appeals Board created by Chapter 2.100 of this Code:

- (a) Determinations of the suitability of alternate building materials and methods of construction for use in this County.
- (b) Interpretations of the provisions of the Uniform Codes adopted by Chapter 12.10 of the Santa Cruz County Code.
- (c) Actions taken 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, including the ratification of hardship exceptions granted pursuant to Section 19957.
- (d) Decisions, orders or determinations made by the fire code official relative to the application and interpretation of Chapter 7.92 of this Code.

The Building, Accessibility, and Fire Code Appeals Board shall have no authority to amend, waive, or otherwise modify the requirements of this title, the Uniform Codes adopted under this title, or Chapter 7.92 of this Code. (Ord. 4389A, 4/2/96; Ord. 2281, 4/20/76; Ord. 2368, 12/7/76; Ord. 4202, 6/2/92; Ord. 4353, 2/14/95; Ord. 5024 11/25/08)

12.12.020 Notice of Appeal.

- (a) Appeals to the Building, Accessibility, and Fire Code Appeals Board shall be taken by filing a written Notice of Appeal with the Planning Department within fourteen calendar days after service of such decision, order, or determination appealed from was made.
- (b) The filing fee established by Resolution of the Board of Supervisors shall accompany the Notice of Appeal. (Ord. 228 1, 4/20/76; Ord. 2551, 4/18/78; 4500-C, 8/4/98; Ord. 5024, 11/25/08)

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12.12.030 Effect of filing Notice.

Filing of the Notice of Appeal shall have the effect of staying the issuance of any permit or other action taken by the county official provided for by the terms of this title until the matter is disposed of on appeal except for decisions, orders, or determinations affecting acts or conditions which in the opinion of the county official, pose an immediate threat to life, property, or the environment as a result of panic, fire, explosion, or release. Ord. 2281, 4/20/76; Ord. 2551, 4/18/76; 4500-C, 8/4/98; Ord. 5024, 11/25/08)

12.12.040 Contents of Notice.

The Notice of Appeal shall state the decision, order, or determination appealed from, the identity of the appellant and his interest in the matter, a brief statement in ordinary and concise language of the relief sought and the reasons that it is claimed that the protested decision, order, or determination should be reversed, modified, or otherwise set aside, and the signature of all appellants and their official mailing addresses. (Ord. 2281, 4/20/76; Ord. 5024, 11/25/08)

12.12.050 Setting for hearing.

Upon receipt of the Notice of Appeal, the matter shall be set for hearing before the Building, Accessibility, and Fire Code Appeals Board not later than 30 days following the date on which the Notice was filed. Written notice of the time and place set for hearing the appeal shall be given to the appellant, and the officer whose decision, order, or determination is appealed from, at least ten days prior to the hearing. Further notice shall be given in the same manner as required for the original action appealed from. The department or officer involved in the appeal shall transmit to the Building, Accessibility, and Fire Code Appeals Board all records related to the appeal and shall, upon request, furnish such additional information relative to the proceedings as may be requested by the Building, Accessibility, and Fire Code Appeals Board. (Ord. 2281, 4/20/76; Ord. 5024, 11/25/08)

12.12.060 Action on appeals by Building Appeals Board.

(a) At the hearing on the appeal, the appellant shall, in the first instance present evidence in support of the grounds enumerated in her/his notice of appeal. The county official shall next present evidence in support of her/his decision, order, or determination. The appellant and the county official shall each have one opportunity to rebut the evidence presented by the other. The hearing shall be de novo in all respects.

(b) Upon hearing the appeal, the Board may issue a decision affirming, modifying, or vacating the decision, order, or determination of the county official. The decision shall be in writing and shall be served upon the appellant by first class mail to the mailing address given in the notice of appeal.

(c) The Board shall render a final decision no later than 14 calendar days following the opening of the appeal hearing, except that the Board may extend the limit set by this subsection if it determines that additional time is required to hear the matter. (Ord. 2281, 4/20/76; Ord. 5024, 11/ 25/ 08)

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12.12.070 Appeals under the Uniform Code for the Abatement of Dangerous Buildings.

Notwithstanding any of the foregoing provisions of this Chapter, appeals of any notice or order issued under the Uniform Code for the Abatement of Dangerous Buildings shall be processed in accordance with the provisions of the Uniform Code for the Abatement of Dangerous Buildings.

12.12.080 Appeals to Board of Supervisors.

Any property owner or other person aggrieved, or any person whose interests are adversely affected by any act or determination of the Building, Accessibility, and Fire Code Appeals Board may appeal the act or determination to the Board of Supervisors in accordance with Sections 18.10.340 through 18.10.350 of the Santa Cruz County Code in the same manner as provided for appeals from acts or determinations of the Planning Commission under Chapter 18.10 of the County Code. For this purpose the procedure therein set forth is incorporated herein and made a part of this Chapter. (Ord. 2281, 4/20/76; Ord. 5024, 11/25/08)

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12.12.070 Appeals under the Uniform Code for the Abatement of Dangerous Buildings.

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12.12.080 Appeals to Board of Supervisors.

Any property owner or other person aggrieved, or any person whose interests are adversely affected by any act or determination of the Building, Accessibility, and Fire Code Appeals Board may appeal the act or determination to the Board of Supervisors in accordance with Sections 18.10.340 through 18.10.350 of the Santa Cruz County Code in the same manner as provided for appeals from acts or determinations of the Planning Commission under Chapter 18.10 of the County Code. For this purpose the procedure therein set forth is incorporated herein and made a part of this Chapter. (Ord. 2281, 4/20/76; Ord. 5024, 11/25/08)