



County of Lassen
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

July 14, 2017

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TO: Board of Supervisors
Agenda Date: July 25, 2017

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

SUBJECT: The proposed ordinance repeals and replaces Chapter 12.22 (Board of Appeals) of the Lassen County Code in its entirety. The duties of the board of appeals shall be to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the uniform codes. The proposed ordinance amends Section 12.22.010, citing the current sections of the California Building Code under which the Appeals Board is established; Section 12.22.020, amending the Board composition from up to six members to three members; and eliminates Section 12.22.050 allowing for an appeal of the Board of Appeals' decision to the Board of Supervisors, rendering the decision of the Board of Appeals final.

ACTION REQUESTED:

1. Receive report; and
2. Introduce the ordinance and read (or waive).

SUMMARY

The purpose of this Board meeting is to allow the Board to consider the attached ordinance, amending the County Code to adopt sections of the California Building Code with modifications to the board of appeals. As described at Sections 1.8.8 and 113 of the California Building Code (both sections are attached), said board of appeals hears and decides appeals of orders, decisions, and determinations made by the Building Official relative to the application and interpretation of the California Building Code and other regulations governing construction, use, maintenance and change of occupancy of buildings.

Currently, the Lassen County Code requires the board of appeals to consist of up to six members, each member with different specific areas of expertise. Lassen County Code Section 12.22.020 (Board Composition) requires a civil engineer, general contractor, plumbing contractor, disabled person or member of the public knowledgeable of the Americans with Disabilities Act, and a lay person. The building official is an "ex officio" member of the board that acts as secretary but not have any voting power.

Recently, however, it has been difficult for Lassen County to fill all of these positions, and the board of appeals has had many vacancies (currently there is lack of a quorum if a meeting became necessary). The proposed amendment to Title 12 of the Lassen County Code eases both the number of members on the board of appeals (to three members, instead of six) and the occupation/area of expertise of said members. The proposed amendment instead requires that members of the board of appeals be knowledgeable in applicable building codes and regulations as determined by the Board of Supervisors (this matches

language found in the California Building Code). The proposed changes are expected to facilitate the filling of seats of the board of appeals and thereby, its operation and functionality.

Furthermore, under the proposed amendment to Title 12, the decision of the board of appeals is final, whereas the current code allows for an appeal to the board of appeals' decision that is heard by the Board of Supervisors.

MLA:smr

Enclosures: Proposed Ordinance
 Lassen County Code Chapter 12.22
 Sections 1.8.8 and 113 of the California Building Code

ORDINANCE NO. _____

Ordinance revising Lassen County Code Chapter 12.22 (Board of Appeals)

The following ordinance, consisting of three sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Lassen, State of California, at a regular meeting of the Board of Supervisors held on the ____th day of _____, 20__, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Chairman of the Board of Supervisors,
County of Lassen, State of California

Attest: JULIE BUSTAMANTE
Clerk of the Board

By: _____
MICHELE J. YDERRAGA, Deputy Clerk of the Board

I, MICHELE J. YDERRAGA, Deputy Clerk of the Board of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing ordinance was adopted by the said Board of Supervisors at a regular meeting thereof held on the ____th day of _____, 20____.

Deputy Clerk of the County of Lassen Board of Supervisors

THE BOARD OF SUPERVISORS OF THE
COUNTY OF LASSEN ORDAINS AS FOLLOWS:

SECTION ONE: This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published with the names of the members voting for and against the same, once in a local newspaper of the County of Lassen, State of California.

SECTION TWO: Chapter 12.22 of the Lassen County Code is hereby repealed and replaced with the following:

“Chapter 12.22 BOARD OF APPEALS

“12.22.010 Establishment.

A board of appeals is hereby established pursuant to Section 113.3 and Section 1.8.8 of the California Building Code, with additions and modifications as set forth in this chapter. The board shall be appointed by the board of supervisors and meet on an as-needed basis, to serve for the duration of the appeal under consideration. Each board member shall be paid a stipend set by the board of supervisors.”

“12.22.020 Board composition.

The board of appeals shall consist of three members who shall be knowledgeable in the applicable building codes, regulations and ordinances as determined by the Board of Supervisors. Appeal Board members shall not be employees of Lassen County.

The building official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board.”

“12.22.030 Duties.

The duties of the board of appeals shall be to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the uniform codes.”

“12.22.040 Procedure for appeal.

Any person wishing to appeal an order, decision or determination made by the building official may file with the secretary of the board of appeals within ten days of such order, decision or determination, a written appeal specifically setting forth the grounds for appeal. The secretary of the board of appeals shall set a hearing date and convene the board of appeals within thirty days of receiving an appeal request. The secretary of the board of appeals shall give notice to the appellant at least ten days prior to the hearing. Said board shall render its decision and a copy of the decision shall be mailed to the appellant within thirty days after the hearing is closed. The board of appeal decision is final.”

Ordinance No. _____

SECTION THREE: If any section, subsection, sentence, clause, or phase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

322.08

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Chapter 12.22 BOARD OF APPEALS

12.22.010 Establishment.

A board of appeals is hereby established pursuant to Section 105 of the California Uniform Building Code, with additions and modifications as set forth in this chapter. The board shall be appointed by the board of supervisors and meet on an as-needed basis, to serve for the duration of the appeal under consideration. Each board member shall be paid a stipend set by the board of supervisors. (Ord. 546, 2002).

12.22.020 Board composition.

The board of appeals shall consist of up to six members who are qualified by experience and/or training to pass on matters pertaining to building construction as follows:

- (a) Civil engineer;
- (b) General contractor;
- (c) Plumbing contractor;
- (d) Electrical contractor;
- (e) A disabled person or member of the public recognized as being knowledgeable of the ADA;
- (f) Lay person.

The building official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. (Ord. 546, 2002).

12.22.030 Duties.

The duties of the board of appeals shall be to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the uniform codes. (Ord. 546, 2002).

12.22.040 Procedure for appeal.

Any person wishing to appeal an order, decision or determination made by the building official may file with the secretary of the board of appeals within ten days of such order, decision or determination, a written appeal specifically setting forth the grounds for appeal. The secretary of the board of appeals shall set a hearing date and convene the board of appeals within thirty days of receiving an appeal request. The secretary of the board of appeals shall give notice to the appellant at least ten days prior to the hearing. Said board shall render its decision and a copy of the decision shall be mailed to the appellant within thirty days after the hearing is closed. (Ord. 546, 2002).

12.22.050 Appeal to the board of supervisors.

Within twelve days from the mailing of the board of appeals' decision, the appellant may file with the county clerk, upon payment of the established fee, a written appeal of the decision of the board of appeals to the Lassen County board of supervisors. If an appeal is not filed within this twelve day period, the board of appeal decision shall be final. (Ord. 546, 2002).

old set for equivalent facilitation as defined in Chapter 2.

For additional information regarding approval of alternates by a building department pursuant to the State Housing Law, see California Health and Safety Code Section 17951(e) and California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1.

1.8.7.3 Department of Housing and Community Development. The Department of Housing and Community Development may approve alternates for use in the erection, construction, reconstruction, movement, enlargement, conversion, alteration, repair, removal or demolition of apartments, condominiums, hotels, motels, lodging houses, dwellings or an accessory thereto and permanent buildings in mobilehome parks and special occupancy parks. The consideration and approval of alternates shall comply with the following:

1. The department may require tests at the expense of the owner or owner's agent to substantiate compliance with the California Building Standards Code.
2. The approved alternate shall, for its intended purpose, be at least equivalent in performance and safety to the materials, designs, tests or methods of construction prescribed by this code.

SECTION 1.8.8 APPEALS BOARD

1.8.8.1 General. Every city, county, or city and county shall establish a process to hear and decide appeals of orders, decisions and determinations made by the enforcing agency relative to the application and interpretation of this code and other regulations governing construction, use, maintenance and change of occupancy. The governing body of any city, county, or city and county may establish a local appeals board and a housing appeals board to serve this purpose. Members of the appeals board(s) shall not be employees of the enforcing agency and shall be knowledgeable in the applicable building codes, regulations and ordinances as determined by the governing body of the city, county, or city and county.

Where no such appeals boards or agencies have been established, the governing body of the city, county, or city and county shall serve as the local appeals board or housing appeals board as specified in California Health and Safety Code Sections 17920.5 and 17920.6.

1.8.8.2 Definitions. The following terms shall for the purposes of this section have the meaning shown.

HOUSING APPEALS BOARD. The board or agency of a city, county, or city and county which is authorized by the governing body of the city, county, or city and county to hear appeals regarding the requirements of the city, county, or city and county relating to the use, maintenance and change of occupancy of buildings and structures, including requirements governing alteration, additions, repair, demolition and moving. In any area in which there is no such board or agency, "Housing appeals board"

means the local appeals board having jurisdiction over the area.

LOCAL APPEALS BOARD. The board or agency of a city, county, or city and county which is authorized by the governing body of the city, county, or city and county to hear appeals regarding the building requirements of the city, county, or city and county. In any area in which there is no such board or agency, "Local appeals board" means the governing body of the city, county, or city and county having jurisdiction over the area.

1.8.8.3 Appeals. Except as otherwise provided in law, any person, firm or corporation adversely affected by a decision, order or determination by a city, county, or city and county relating to the application of building standards published in the California Building Standards Code, or any other applicable rule or regulation adopted by the Department of Housing and Community Development, or any lawfully enacted ordinance by a city, county, or city and county, may appeal the issue for resolution to the local appeals board or housing appeals board as appropriate.

The local appeals board shall hear appeals relating to new building construction and the housing appeals board shall hear appeals relating to existing buildings.

SECTION 1.8.9 UNSAFE BUILDINGS OR STRUCTURES

1.8.9.1 Authority to enforce. Subject to other provisions of law, the administration, enforcement, actions, proceedings, abatement, violations and penalties for unsafe buildings and structures are contained in the following statutes and regulations:

1. For applications subject to the State Housing Law as referenced in Section 1.8.3.2.1 of this code, refer to Health and Safety Code, Division 13, Part 1.5, commencing with Section 17910 and California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, commencing with Section 1.
2. For applications subject to the Mobilehome Parks Act as referenced in Section 1.8.3.2.2 of this code, refer to Health and Safety Code, Division 13, Part 2.1, commencing with Section 18200 and California Code of Regulations, Title 25, Division 1, Chapter 2, commencing with Section 1000.
3. For applications subject to the Special Occupancy Parks Act as referenced in Section 1.8.3.2.3 of this code, refer to Health and Safety Code, Division 13, Part 2.3, commencing with Section 18860 and California Code of Regulations, Title 25, Division 1, Chapter 2.2, commencing with Section 2000.
4. For applications subject to the Employee Housing Act as referenced in Section 1.8.3.2.4 of this code, refer to Health and Safety Code, Division 13, Part 1, commencing with Section 17000 and California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 3, commencing with Section 600.

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Exception: Certificates of occupancy are not required for work exempt from permits in accordance with Section 105.2.

[A] 111.2 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

[A] 111.3 Temporary occupancy. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

[A] 111.4 Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 112 SERVICE UTILITIES

[A] 112.1 Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

[A] 112.2 Temporary connection. The building official shall have the authority to authorize the temporary connec-

tion of the building or system to the utility source of energy, fuel or power.

[A] 112.3 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 101.4 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section 112.1 or 112.2. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.



SECTION 113 BOARD OF APPEALS

[A] 113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

[A] 113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

[A] 113.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

SECTION 114 VIOLATIONS

[A] 114.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] 114.2 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] 114.3 Prosecution of violation. If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to insti-