

ORDINANCE NO. 3500 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMENDING MONTEREY CITY CODE CHAPTER 1, ARTICLE 2, DIVISION 3 PERTAINING TO THE APPEALS HEARING BOARD AND ADDING A BUILDING AND HOUSING APPEALS BOARD AND A DISABLED ACCESS APPEALS BOARD.

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, in January of 2014, the State Building and Disabled Access code requirements changed with respect to types of items that are required to be presented and decided by an appeals board. The new code requirements also address the knowledge and/or experience required in order to be appointed to an Appeals Board.

WHEREAS, modifications to the City's Appeals Hearing Board structure are necessary to conform to State law and at the same time will clarify the distinct role of each appeals board and the knowledge and skills needed to be an active member of these boards.

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 1, Article 2, Division 3 Section 1-11 through 1-11.5 is hereby amended to read as follows:

"Sec. 1-11.1 Designated body - Appeals Hearing Board

Unless otherwise specified in this Code or by other ordinance, the City Council hereby establishes and appoints the Appeals Hearing Board as the designated body delegated with the authority to set, notice, and conduct public hearings required or allowed pursuant to this Article to contest fees, charges, costs, expenses, penalties or other sums of money owed to the City and to allow the imposition of a lien, special assessment, special collection or other collection process against a responsible party and any affected property, as appropriate.

A. The Board shall consist of three members and one alternate member.

- B. Special eligibility requirements:
1. At least two members shall be experienced in planning and zoning issues or shall have experience in the building trades or in building inspection.
 2. One member or the alternate may be a member of the public.
 3. Members may not be employees of the jurisdiction.
 4. Members shall be residents of the City of Monterey.
- C. The Board shall have the following functions, powers, and duties:
1. Hear all administrative hearings and appeals authorized by this Code or by ordinance;
 2. Conduct all administrative abatement action hearings authorized by this Code or by ordinance;
 3. Authorize the imposition of liens, assessments, special collection or other collection process against a responsible party and any affected property, as appropriate; and
 4. Perform such other programs or functions related to administrative hearings and appeals that the City Council or the City Manager may, from time to time, authorize or request.
- D. Following an advertised application process, members of the Board shall be appointed by the City Council upon recommendation or nomination by the City Manager or his or her designated representative, and shall serve two-year terms. If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by appointment by the City Council for the unexpired portion of the term.
- E. Each member of the Board shall be paid the sum of twenty-five dollars (\$25) per meeting for each meeting attended up to a maximum of fifty dollars (\$50) per month.

Sec. 1-11.2 Designated body - Building and Housing Appeals Board

The City Council hereby establishes and appoints the Building and Housing Appeals Board as the designated body delegated with the authority to set, notice, and conduct public hearings required or allowed pursuant to this Article to decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of the California Building, Fire, Plumbing, Mechanical, and Electrical Codes and to allow the imposition of a lien, special assessment, special collection or other collection process against a responsible party and any affected property, as appropriate.

- A. The Board shall consist of three members and one alternate member.
- B. Special eligibility requirements:
1. Each member and the alternate of the Board shall be qualified by experience and training to pass on matters pertaining to building construction. Experience in residential or commercial construction projects, the building trades, code enforcement, or building inspection, is preferred.

2. Members may not be employees of the jurisdiction.

C. The Board shall have the following functions, powers, and duties:

1. Hear all administrative hearings and appeals authorized by all of the adopted California Building, Fire, Plumbing, Mechanical, and Electrical Codes;

2. Authorize the imposition of liens, assessments, special collection or other collection process against a responsible party and any affected property, as appropriate; and

3. The Board shall have no authority to waive requirements of the adopted California Codes.

D. Following an advertised application process, members of the Board shall be appointed by the City Council upon recommendation or nomination by the City Manager or his or her designated representative, and shall serve two-year terms. The term of office for the first three members appointed shall commence at the time of appointment and expire December 31, 2015. If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by appointment by the City Council for the unexpired portion of the term.

E. Each member of the Board shall be paid the sum of twenty-five dollars (\$25) per meeting for each meeting attended up to a maximum of fifty dollars (\$50) per month.

Sec. 1-11.3 Designated body - Disabled Access Appeals Board

The City Council hereby establishes and appoints the Disabled Access Appeals Board as the designated body delegated with the authority to set, notice, and conduct public hearings required or allowed pursuant to this Article to decide appeals of orders, decisions, or determinations made by the Building Official or the City's Americans with Disabilities Act (ADA) Coordinator relative to the application, interpretation, unreasonable hardship requests, or alternate means of compliance with both State and Federal disabled access regulations and to allow the imposition of a lien, special assessment, special collection or other collection process against a responsible party and any affected property, as appropriate.

A. The Board shall consist of five members.

B. Special eligibility requirements:

1. Three of the Board members shall be qualified by experience and training to pass on matters pertaining to building construction and/or State or Federal disabled access regulations.

2. Two members shall be physically disabled.

3. Members may not be employees of the jurisdiction.

C. The Board shall have the following functions, powers, and duties:

1. Hear appeals of orders, decisions, or determinations made by the Building Official or the City's Americans with Disabilities Act (ADA) Coordinator relative to the application, interpretation, unreasonable hardship requests, or alternate means of compliance with both State and Federal disabled access regulations;

2. Authorize the imposition of liens, assessments, special collection or other collection process against a responsible party and any affected property, as appropriate; and

3. Hear appeals regarding actions taken by the Plans and Public Works Department regarding enforcement of laws relating to access to public accommodations by physically disabled persons.

D. Following an advertised application process, members of the Board shall be appointed by the City Council upon recommendation or nomination by the City Manager or his or her designated representative, and shall serve two-year terms. The term of office for the first three members appointed shall commence at the time of appointment and expire December 31, 2015. If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by appointment by the City Council for the unexpired portion of the term.

E. Each member of the Board shall be paid the sum of twenty-five dollars (\$25) per meeting for each meeting attended up to a maximum of fifty dollars (\$50) per month."

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 20th day of May, 2014, by the following vote:

AYES:	5	COUNCILMEMBERS:	Downey, Haffa, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City



City Clerk thereof

