

ORDINANCE NO. 661

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING TITLE 15 CALIFORNIA BUILDING STANDARD CODES, SPECIFICALLY CHAPTER 15.50 (BOARD OF APPEALS) OF THE CALISTOGA MUNICIPAL CODE TO CLARIFY, STREAMLINE AND IMPROVE PROGRAM IMPLEMENTATION

WHEREAS, the City Council adopted on November 6, 2007 Ordinance No. 646 which established a new set of Building Standards Codes for the City Calistoga, including the establishment of duties, responsibilities, and qualifications for the Board of Appeals;

WHEREAS, in response to the current operation of the Board of Appeals, the Building Official and Fire Chief recommends the need to further define the role and function of the Board of Appeals consistent with the California Building Standard Codes and the Health and Safety Codes to address policy, procedures interpretations and provide accessibility expertise;

WHEREAS, a public notice of the City Council public hearing of July 21, 2009 for an amendment to the City's Board of Appeals provisions was published in the local newspaper and made available on the City's website;

WHEREAS, the City Council proposes an ordinance to amend Chapter 15.50 (Board of Appeals) to clarify, streamline, and improve program implementation;

WHEREAS, the City Council finds that this amendment continues to implement the provisions of the California Building Standard Codes with regard to the required duties and responsibilities of the Board of Appeals;

WHEREAS, the City Council finds that this action has been reviewed pursuant to the California Environmental Quality Act (CEQA) and determined that this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment, and where it can be seen with certainty that there is no possibility that the action being contemplated, adoption of amendments to the City of Calistoga's California Building Standard Codes, will have any impact on the environment [Section 15061 (b)(3)]; and

WHEREAS, the City Council has reviewed and considered this amendment at its regular meetings on July 21, 2009 and August 4, 2009, considered as one of its items of business, this Ordinance to be adopted in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Government Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Calistoga that:

SECTION ONE:

Based on the above findings, the City Council of the City of Calistoga adopts this Ordinance to amend Title 15 California Building Standard Codes, specifically Chapter

15.50 Board of Appeals of the Calistoga Municipal Code to clarify, streamline and improve program implementation.

SECTION TWO:

Chapter 15.50

BUILDING STANDARDS ADVISORY & APPEALS BOARD

Sections:

- 15.50.010 General.
- 15.50.020 Limitations on authority.
- 15.50.030 Membership.
- 15.50.040 Qualifications.
- 15.50.050 Terms of office.
- 15.50.060 Quorum.
- 15.50.070 Secretary of board.
- 15.50.080 Meetings.
- 15.50.090 Meeting procedures.
- 15.50.100 Conflict of interest.
- 15.50.110 Decisions.
- 15.50.120 Appeals to the City Council.

15.50.010 General

In order to hear and decide appeals of orders, decisions or determinations made by the Building and Fire Code Officials (Fire Chief), and act as an advisory board for both the Building Division and Fire Department relative to the application and interpretation of these chapters, there shall be and is hereby created a Building Standards Advisory & Appeals Board, also known as the "Board".

15.50.020 Limitations on Authority

An application for appeal shall be based on a claim that the true intent of this title or the rules legally adopted thereunder have been incorrectly interpreted, the provision of this title 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 title.

15.50.030 Membership.

The membership of the board shall consist of seven voting members having the qualifications established by this chapter. Members shall be appointed by the Mayor and confirmed by the City Council. Removal of a member may occur by a majority vote of the City Council.

15.50.040 Qualifications.

The Board shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction, accessibility and hazards of fire, explosions, hazardous conditions or fire protections systems and are not employees of the jurisdiction. Individuals from each of the following professions or disciplines may be appointed to the Board:

- A. Registered design professional.
- B. Registered fire protection professional.
- C. Registered engineer professional (industrial/mechanical preferred).
- D. General contractor.

- E. Certified access professional.
- F. General industry or business representative.

15.50.050 Terms of office.

Members shall be appointed for a staggered term of three years after the initial Board has been appointed and may not serve for more than two consecutive full terms. When a member is appointed to fill an open position due to the voluntary withdrawal or removal of a member, the appointed member's term shall coincide with the term of the departing member.

15.50.060 Quorum.

Four members of the Board shall constitute a quorum.

15.50.070 Secretary of board.

The Fire Code Official and/or Building Official, or appointed designee, shall act as secretary of the Board and shall keep a detailed record of all its proceedings.

15.50.080 Meetings.

The Board shall meet from time to time as needed or as determined by the Fire Code Official and/or Building Official. Upon the receipt of a notice of appeal, the Board shall meet within 10 days of receipt of such appeal.

15.50.090 Meeting Procedures.

The Board shall adopt rules of procedure for conducting its business.

15.50.100 Conflict of interest.

Members with a material or financial interest in a matter before the Board shall declare so and refrain from participating.

15.50.110 Decisions.

Within five days of hearing an appeal, the Board shall issue a written decision and file such decision with the City Clerk's office and the Fire Code Official and/or the Building Official. A copy of the Board's decision shall be sent by certified mail to the appellant. A copy of the decision shall be posted in the office of the Fire Code Official and/or Building Official.

15.50.120 Appeals to the City Council.

Appeals of any Board decision shall be governed by Chapter 1.20 CMC.

SECTION THREE:

If any section or portion of this ordinance is for any reason held to be invalid and or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION FOUR:

THIS ORDINANCE shall take effect thirty (30) days after its passage and before expiration of fifteen (15) days after its passage, shall be published in accordance with law in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City Council meeting of **July 21st day of 2009**, and was passed and adopted at a regular meeting of the Calistoga City Council on **August 4th day of 2009**, by the following vote:

AYES: Councilmembers Garcia, Kraus, Slusser, and Mayor Gingles

NOES: None

ABSENT: Vice Mayor Dunsford

ABSTAIN: None



JACK GINGLES, Mayor

ATTEST:



SUSAN SNEDDON, City Clerk