



## City of Sacramento Law and Legislation Committee

### COMMITTEE MEMBERS:

**LAUREN HAMMOND, Chairperson (D-5)**

**Patti Bisharat**  
*Government Affairs*

**SANDY SHEEDY (D-2)**  
*Councilmember*

**Yvette Rincon**  
*Legislative Analyst*

**STEVE COHN (D-3)**  
*Councilmember*

**ROBBIE WATERS (D-7)**  
*Councilmember*

City Hall  
915 I Street  
First Floor Council Chambers  
March 7, 2006  
12:30 P.M.

*The Law and Legislation Committee is a Standing Committee, a permanent committee of the City Council, established to consider subjects of particular class.*

*Its purpose is to review proposed legislation, revisions to existing legislation, proposed city ordinance, and revisions to existing ordinances in order to make recommendation to the full City Council.*

NOTICE IS HEREBY GIVEN that the Sacramento City Council will conduct concurrent meetings with the Council Committee(s) listed on this agenda which is incorporated herein by reference. The Special Meeting(s) are called to permit members who are not on the listed committees to attend the meetings and participate in the discussion. In the event five (5) or more members of the City Council are present at a committee meeting, only those items listed on the agenda can be acted upon or discussed.

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**Law and Legislation Committee  
Agenda**

**CALL TO ORDER**

**ROLL CALL**

**Consent Calendar**

*All items listed on the consent calendar are considered and acted upon by one motion. A member of the legislative body or staff may request an item be removed for separate consideration.*

**1.0 Approval of February 7, 2006 Minutes**

**RECOMMENDATION:** Approve February 7, 2006 Minutes

**2.0 Approval of Legislative Log**

**RECOMMENDATION:** Approve legislative log

**Staff Reports**

Each speaker is limited to a maximum of 3 minutes.

**3.0 City Sponsored Infill Housing Plan Project**

**RECOMMENDATION:** Approval of City code amendments relating to the infill housing plan project and forward to full City Council.

**4.0 Modifications to the Construction Code Appeals Process**

**RECOMMENDATION:** Approve and forward to full City Council, modifications to the construction code appeals process, which establishes a streamlined two tiered appeals process.

**5.0 AB 861, Relating to Barbering and Cosmetology**

**RECOMMENDATION:** Adopt a support position on AB 861.

**6.0 AB 1558, Relating to the Fair Political Practices Commission**

**RECOMMENDATION:** Adopt a support position on AB 1558.

**7.0 AB 1387, Relating to Residential Infill Projects**

**RECOMMENDATION:** Adopt a support position on AB 1387.

**Citizens Addressing Council (Matters not on the Agenda)**

Each speaker is limited to a maximum of 3 minutes.

**8.0 To be announced**

**Committee Ideas and Questions**

**9.0 To be announced**

**Adjournment**

**10.0 To be announced**

**LAW AND LEGISLATION COMMITTEE**  
**Preliminary Calendar**  
**As of February 28, 2006**

**DISCLAIMER:** The following information is tentative as to dates and subjects.

**Tuesday, March 21, 2006**

Updating an Ordinance to Reflect Reorganization Changes – **DEVELOPMENT SVCS**  
Amendments to Marina Ordinance (tentative)– **CC&L**  
Alcohol Use Permit Processing Ordinance – **POLICE**  
Position on State WRIF Proposal - **UTILITIES**

**April 4, 2006**

Amend Ordinance Relating to Northgate Boulevard Special Planning District – **Development Svcs**  
Pedi-cab Ordinance – **Finance**

**PENDING ORDINANCES/REPORTS:**

Report Back on Contract Standards - **General Svcs**  
Report Back on Representation of Neighborhood Associations - **Development Svcs/NSD**  
Contractual Conflict of Interest of City Employees - **Finance**  
Ordinance Amending Code Relating to Temporary Construction Zones - **Transportation**  
Amendments to the Condominium Conversion Regulations - **Development Svcs**  
Lighting and Signal Ordinances - **Development Svcs**  
Drug & Gun Free Zones and Creation of Civil Exclusion - **Police**  
Report Back on City-wide Sign Ordinance - **Development Svcs**  
Illegal Dumping Vehicle Impound Ordinance – **Code Enforcement**  
Fire Code Revisions - **Fire**  
Housing Trust Fund Nexus Study - **Development Svcs**  
Revisions to Building Appeals Board Process – **Development Svcs**  
Front yard Landscaping – **Code Enforcement**  
Amend Ordinance Regarding Reward Program – **Code Enforcement**  
Solid Waste Facility Fee - **Utilities**  
Amend Tree Ordinance – **Parks & Rec**  
Public Financing of Campaigns – **City Clerk**  
Mobile Food Vendor Ordinance – **Finance**  
Second Hand Smoke – **CODE**  
R Street Urban Design Plan and SPD Amendments - **Development Svcs**



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

1.0

Consent  
March 7, 2006

Honorable Members of the  
Law and Legislation Committee

**Subject:** Approval of Minutes – February 7, 2006

**Location/Council District:** All

**Recommendation:** Approve the minutes for the Committee meeting of February 7, 2006.

**Contact:** Patti Bisharat, Special Projects Manager - 808-8197

**Presenters:** Patti Bisharat, Special Projects Manager - 808-8197

**Department:** City Manager's Office

**Division:** Legislative Affairs

**Organization No:** 0300

**Summary:** Staff is recommends the approval of the minutes for the Committee meeting of February 7, 2006.

**Committee/Commission Action:** None.

**Financial Considerations:** None.

**Environmental Considerations:** None.

**Policy Considerations:** None.

**Emerging Small Business Development (ESBD):** None.

Respectfully Submitted by:   
Patti Bisharat, Government Affairs

Recommendation Approved:

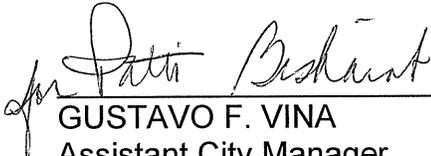
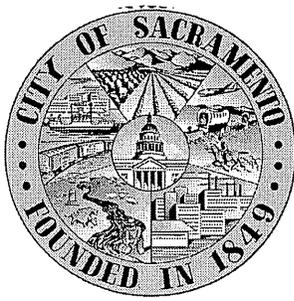
  
\_\_\_\_\_  
GUSTAVO F. VINA  
Assistant City Manager

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Pg 3 Attachment A - Minutes for February 7, 2006 Meeting



# City of Sacramento Law and Legislation Committee Minutes

## COMMITTEE MEMBERS:

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**SANDY SHEEDY (D-2)**  
*Councilmember*

**STEVE COHN (D-3)**  
*Councilmember*

**ROBBIE WATERS (D-7)**  
*Councilmember*

## CITY STAFF:

**Patti Bisharat**  
*Government Affairs Manager*

**Yvette Rincon**  
*Legislative Analyst*

*City Hall  
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February 7, 2006  
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# Law and Legislation Committee Minutes

CALL TO ORDER 12:30pm

ROLL CALL – Sheedy, Waters, Hammond present. Cohn absent.

## Consent Calendar

*All items listed on the consent calendar are considered and acted upon by one motion. A member of the legislative body or staff may request an item be removed for separate consideration.*

### 1.0 Approval of January 17, 2006 Minutes

**RECOMMENDATION:** Approve January 17, 2006 Minutes

**ACTION:** Moved/seconded/carried (Sheedy/Waters) approval of minutes

### 2.0 Approval of Legislative Log

**RECOMMENDATION:** Approve legislative log.

**ACTION:** Moved/seconded/carried (Sheedy/Waters) approval of Legislation Log.

### 3.0 Port of Governance Legislation

**RECOMMENDATION:** Approve pursuing state legislation to amend state code pursuant to the terms of a Joint Port Governance Agreement recently approved and executed by the appointing jurisdictions of the Sacramento-Yolo Port District Commission.

**ACTION:** Moved/seconded/carried (Sheedy/Waters) approval of Port of Governance Legislation.

## Staff Reports

*Each speaker is limited to a maximum of 3 minutes.*

### 4.0 2006 Legislative Platform

**RECOMMENDATION:** Approve the proposed 2006 State and Federal Legislative Platform and forward it to full City Council for adoption.

**ACTION:** Moved/seconded/carried (Sheedy/Waters) approval of 2006 State and Federal Legislative Platform, with the addition of clearly identifying retention of eminent domain authority as an issue under redevelopment, and forwarded to full Council.

## 5.0 Guiding Principles Related to Flood Control

**RECOMMENDATION:** Approve guiding principles related to flood control to use in evaluating proposed legislation or regulations regarding a variety of flood control issues and forward to full City Council for adoption.

**ACTION:** Moved/seconded/carried (Sheedy/Waters) approval of Guiding Principles related to Flood Control.

Public testimony given by Linda Roberts.

## 6.0 Mobile Food Vendor Ordinance

**RECOMMENDATION:** Provide staff direction regarding revisions to the City's current mobile food vendor ordinance.

**ACTION:** Council requested staff to come back to the Law and Legislation Committee with a mobile food vendor ordinance. Councilmember Sheedy asked staff to look at a number of issues when drafting the ordinance including: maintaining the 15 minute maximum for vending on public-right-of-ways; random inspections of mobile food vendors; restricting the amount of time vendors are allowed to park on private property or near restaurants; a review of the different ordinances that affect vendors based on location in the City; look at regulation of pushcarts; and address the issue on a citywide basis (not just central city). Councilmember Waters asked staff to report back on: the number of permits the city has issued; the number of permits the city will allow to be issued; the amount currently charged for penalties and the recommended increase; how the city ensures collection of sales tax from vendors; and whether the county is considering a similar ordinance. Councilmember Waters also asked staff to look at the following issues for the ordinance including; requiring standardized signage on mobile food vendor vehicles similar to what is required of taxicabs; competition issues between mobile vendors and brick and mortar businesses; ensuring proper enforcement of the ordinance; requiring the food vendor to post a letter of permission given by the private property owner on whose property it sits; possibly increasing the permit fee; and inclusion of a map of the business district in the next report. Chair Hammond asked staff to conduct inclusive outreach to mobile food vendors, neighborhood associations, business associations, and businesses that are competing with these vendors to ensure that they know the city is drafting an ordinance. She also asked staff to look at a number of issues for the ordinance including: a hotline that citizens can call to report violations; a night division of code enforcement; and a review of the differences in city ordinances that affect vendors based on location in the City.

Public testimony given by Linda Roberts.

### Citizens Addressing Council (Matters not on the Agenda)

*Each speaker is limited to a maximum of 3 minutes.*

**5.0 To be announced**

Sharon Jackson gave a presentation on the parolee programs provided by the State Department of Corrections.

**Committee Ideas and Questions**

**6.0 To be announced**

**Adjournment**

**7.0 Adjourned – 1:38pm**

# Legislation Log

1-Mar-06

revised

Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date <sup>1</sup>	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion <sup>2</sup>	City Departments Possibly Affected
				<b>NEW OR UPDATED ITEMS</b>			
1	Amend Ord for Northgate SPD	DSD	4-Apr-06	Amend ordinance relating to Northgate Blvd Special Planning District	Possibly	Moderate	Dev Svcs
2	Amendments to Development SVCS code	DSD/Julia McGinnis	21-Mar-06	An Ordinance amendment updating various sections of chapters 3, 5, 12, 16, and 18 of the City Code referencing City Engineer and Director of Public Works and adding a definition for City Manager's Designee	NO	Minimal	Dev Svcs
				<b>SCHEDULED LAW &amp; LEG ITEMS</b>			
3	Amendments to Marina Code	CC&L/Michelle Heppner	21-Mar-06	Amendments to the Marina Code to update and address administrative processes.	Yes	Moderate	CC&L
4	Code Appeals Board	Dev Svcs/Ron Beehler	7-Mar-06	Revisions to City Code relative to the Code Appeals Board.	Possibly	Moderate	Dev Svcs
5	Infill House Plan Program	Dev Svcs/Lucinda Wilcox	7-Mar-06	Report on the City Sponsored Infill House Plan Program.	No	Moderate	Dev Svcs
6	Pedi-Cab Ordinance	CM Tretheway/ Finance/Code	4-Apr-06	Discussion on proposed ordinance regarding permitting of non-motorized pedi-cabs	Possibly	Moderate	Finance/Code/ DOT/Police
7	Approved Alcohol Use Permits Processing	CM Hammond/ Police/Sherri Scruggs	21-Mar-06	Amend Chapter 17 of the City Code regarding deemed approved alcohol use permits processing. Heard by the Law & Leg Committee on 9/20/05. Directed staff to report back with draft ordinance in 120 days.	Possibly	To be determined	Police/Code
				<b>LAW AND LEG COMMITTEE ORDINANCE &amp; REPORTS - DATE PENDING</b>			

2

<sup>1</sup> Reflects atty drafting time only not time required for the leg. process, incl. staff direction, public outreach, comm. meetings, wkshps, formal noticed public hearings req. for adoptions.  
<sup>2</sup> Limited =<10 hrs, Moderate =10-40 hrs, Sig. => 40 hrs

## Legislation Log

Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
8	Amend Tree Ordinance	Parks & Rec/Jack Harrison	Pending	Amend the City's Tree Ordinance to add section to: allow assessment of fees; prohibit topping of trees; and amend the tree permit appeals process.			
9	Solid Waste Facility Fee/ Host Benefit Fee	General Svcs/Harold Duffy	Fall 2005	Ordinance to mitigate potential impacts to a geographic area relative to locating a solid waste facility. The Law & Leg Committee heard a staff report on this issue on November 4, 2004 and directed staff to get input from an advisory committee and report back to the L&L Committee with recommendations on fees.	To be Determined	To be Determined	Solid Waste/ Dev Svcs
10	Report Back on Contract Standards	Gen Svcs	Summer 2004	Law & Leg Committee heard a report on SB163 on 5/20/03. Report back requested on what contract standards the city currently uses, an evaluation of the proposed standards of SB163 and how they may help the city improve its standards and a recommendation from staff for other contracting standards we should apply in the City.	Potentially	To Be Determined	Gen Svcs
11	Report Back on Representation of Neighborhood Associations	Dev Svcs/NSD	Pending	On June 3, 2003 the Law & Leg Committee requested a report back regarding the noticing process and reliance on Neighborhood Associations that do not always represent a majority of residence on an issue.	To Be Determined	To Be Determined	Dev Svcs/NSD
12	Contractual Conflict of Interest of City Employees	Finance	Pending	Amendment of code related to prohibition on city employees having a financial interest in a city contract.	No	Minimal	Citywide
13	Amendments to R Street SPD	Dev Svcs/Todd Leon	1-May-06	Amendments to R Street Special Planning District to Facilitate Development	To be Determined	To be Determined	Dev Svcs
14	Amend Code Relating to Temporary Construction Zones	Transportation/ Parking/ Howard Chan	06-Jan-05	Amend Section 10.36.140 of Title 10 of City Code to delete the use of the cumbersome portable construction signs in favor of a monthly hangtag to improve staff efficiency and provide better customer service.	Unlikely	Moderate	Trans

1 Reflects attorney drafting time only not time required for the legal process, including staff direction, public outreach, community meetings, workshops, formal noticed public hearings required for adoptions.

2 Limited = <10 hrs, Moderate = 10-40 hrs, Significant = >40 hrs

## Legislation Log

	Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
15	12.04.2	Amend Condominium Conversion Regulations	Dev Svcs/Aaron Sussman	Pending	Proposed updates and revisions to the City Code relative to Condominium Conversions. Heard by Council on 05/17/05 and referred back to staff for report back.	Possibly	To be determined	Dev Svcs
16	12.04.3	Lighting Ordinance	Dev Svcs/Gary Stonehouse	Pending	Council requested that the Lighting Ordinance be placed on the Law & Leg Committee schedule.	To Be Determined	To be determined	Dev Svcs
17	11.04.2	Establish Drug & Gun Free Zones and Creation of Civil Exclusion	Police/Sherri Scruggs	Pending	Subject heard by Committee on 12/7/04. Staff met with Portland DA and federal agencies to share information. CAO reviewing information provided. There are concerns regarding the differences in the Oregon and California state constitutions which could impact the ordinance. Staff will follow-up with a date to return to the committee.	Possibly	Major	Police/CAO
18	1.2	Update on Sign Ordinance and Sign Program	Dev Svcs/ NSD	Pending	Report presented to Committee in January 2004. Committee provided feedback and directed staff to report back. Staff is reviewing the issue and preparing its report back to the Committee.	Yes	Significant	Dev Svcs/ NSD
19	09.04.02	Illegal Dumping Vehicle Impound Ordinance	CM Hammond/ NSD/Max Fernandez	Pending	Provide for seizure and impound for a specified time for vehicles involved in illegal dumping. Code and CAO working on options.	Potentially Yes	Significant	Code
20	03.05.03	Front yard Landscaping Ordinance	NSD/Max Fernandez	Pending	Amend City Code related to front yard landscaping to allow maintained garden vegetation. Committee directed staff to return with more restrictive language.	Possibly	Moderate	Dev Svcs / NSD
21	05.05.02	Housing Trust Fund Nexus Study	Dev Svcs	Pending	Amend City Code related to Housing Trust Fund fees.	Possibly	To Be Determined	Dev Svcs

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## Legislation Log

	Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date <sup>1</sup>	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion <sup>2</sup>	City Departments Possibly Affected
22	05.05.04	Fire Code Revisions	Fire/Troy Malaspino	Summer 2005	Update the City Code related to fire safety.	No	Moderate	Fire/Dev Svcs
23	08.05.1	Amend Ordinance Relating to Reward Program	Waters/Code/Max Fernandez	Fall 2005	Amend ordinance relating to reward program to allow payment of reward at arrest and prosecution.	Unlikely	Minimal	Code
24	03.05.05	Public Campaign Financing	CMO/Clerk	To be determined.	Staff returning to committee, per City Council direction, to review what other cities do regarding qualifications on use of public funds for campaigns.	Yes	Moderate	CMO/Clerk
25	1.06.3	Update on Rental Inspection Program Pilot	L&L Committee/Code	Summer 06	At the meeting of January 17, 2006 the Law & Leg Committee requested a report back on the Rental Inspection Pilot Program after six months.	No	Not Applicable	Code
26	1.11	Mobile Food Vendor Ordinance	CM Tretheway/Aaron Chong	To be determined.	The Law & Leg Committee heard a report on February 7, 2006 regarding revising the existing ordinance to address regulation of Mobile Food Vendor industry including hours of operation, locations, etc. The Committee directed staff to report back with a proposed ordinance that addressed a number of issues.	Potentially Yes	Moderate	Finance/Dev Svcs/Code
				<b>City Council Date</b>	<b>ORDINANCES/REPORTS FORWARDED TO COUNCIL OR OTHER COMMITTEES</b>			
27	02.05.02	Parade Ordinance Revisions	NSD	Pending	Amend City Code to include weapons that may not be carried in a parade. Committee directed Staff to go directly to Council with amended ordinance.	Possibly	To be determined	NSD/Police

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Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date <sup>1</sup>	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion <sup>2</sup>	City Departments Possibly Affected
28	Amend Ordinance to Prohibit Open Beverage Container	CM Cohn/Police	Pending	The Law & Leg Committee heard a discussion paper regarding amending current city code to prohibit the possession of an open alcoholic beverages in public on November 16, 2004. The Committee directed staff to investigate extending the prohibition to include private property such as parking lots and to go directly to City Council with a proposed ordinance.	Significant	Moderate	Police
29	Parking of Trailers, Auto Coaches, etc in Residential and Industrial Areas Public Right of Way	Trans/Dennis Kubo	Pending	City may enact parking regulations to address problems of commercial vehicles parked in residential areas. City has current regulations to restrict parking without enacting a new ordinance when signs are posted, upon any street described in resolutions adopted by City Council. Implementation has been hampered due to cost. Additional follow-up requested by CM Sheedy and CM Pannell. DOT staff to meet with Councilmember to determine next steps.	Potentially yes	Moderate	Dev Svcs/ Trans/NSD (Code)

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3.0

# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
March 7, 2006

Honorable Members of the  
Law and Legislation Committee

**Subject:** Amendments to the Sacramento City Code related to establishment of City Sponsored Infill House Plans and amendments to Title 17(Zoning) to facilitate development on smaller lots found in many of the older neighborhoods.  
(M03-194)

**Location/Council District:** Citywide

**Recommendation:**

Staff of the Development Services Department and the City Planning Commission recommends that the Law and Legislation Committee recommend approval of the attached City Code amendments and forward to City Council.

**Contact:** Ashley Feeney, Assistant Planner, 808-1941; Lucinda Willcox, Infill Coordinator, 808-5052

**Presenters:** Ashley Feeney, Assistant Planner

**Department:** Development Services

**Division:** Planning/Infill

**Organization No:** 4827 and 4814

**Summary:**

This is a pilot program to provide for lower cost, high quality model infill house plans for use in the City's older neighborhoods to facilitate development on vacant single-family lots. Certain Code amendments are necessary to allow the program and to facilitate development on smaller lots found in many of the older neighborhoods. The City commissioned four sets of house plans, each with three elevations, and conducted community outreach on the plans and related Code amendments.

**Committee/Commission Action:**

On February 16, 2005, by a vote of 6 ayes and 3 absent the Sacramento City Planning Commission voted to recommend approval of the proposed amendments to Title 17 of the City Code and forward to City Council.

**Background Information:**Program Summary

The City Council approved a program to develop “model” or “pre-approved” house plans for infill lots with the goal of streamlining the process for development of high quality single-family homes in the City’s older neighborhoods and redevelopment areas. The program is intended to facilitate development of these vacant lots and encourage quality residential development in the City. The model infill house plan program was adopted as part of the City’s Infill Strategy to address the time, costs, and quality associated with development of the large number of small vacant single-family residential lots within the City. The intent is to provide options for property owners and prospective developers of these infill lots.

Plan Application

The plans are designed to suit lot widths and characteristics of certain neighborhoods while meeting the typical needs for first-time homeowners. Two sets of plans are designed for a 40 to 45-foot lot width typical of older Oak Park and other pre-World War II neighborhoods. Two other plans are designed for 50 to 55-foot lot widths typical of North Sacramento, Del Paso Heights, and south Oak Park. The plans are intended for use in the Oak Park, Del Paso Heights, North Sacramento, Strawberry Manor, and expanded Citywide Design Review areas. They are not intended for use in the Central City, historic districts, or Planned Unit Developments.

When completed, the plans will be “pre-approved” through the design review and building permitting process. Plans will be approved for four to five years, with review to determine whether continued use is appropriate.

City Code Amendments

Under Chapter 17.208 of the City Code, both the Planning Commission and City Council are required to hold public hearings on Zoning Code Amendments.

Before your Committee are a number of citywide code amendments to implement the program and to accommodate the pre-approved plans. The code amendments will also allow for increased quality residential development opportunity in the City’s infill areas.

Many of the existing lots in older neighborhoods are smaller in width and/or depth than standard lot sizes in the City’s Zoning Ordinance. Most older neighborhoods have 40 or 50-foot lot widths, compared with the 52-foot standard. As a result, development on such lots frequently results in narrow homes, smaller homes, or requires zoning variances. In order to promote homes that are in keeping with the surrounding neighborhood, staff is proposing some

Zoning Code amendments. These are necessary to permit the pre-approved house plans.

In addition, staff is proposing amendments to Chapter 17.132 to establish the program and remove the noticing requirements in design review areas for pre-approved house plans. Under the current process, applications within design review areas are submitted to staff, which then notifies adjacent neighbors and interested parties. Staff routes the plans to the Project Area Committees (PAC's) or Redevelopment Advisory Committees (RAC's) for review and comment for applications within redevelopment areas. Finally, staff makes a discretionary decision on plan compliance with applicable design standards and sends out a required notice of decision. After the ten-day appeal period expires, the applicant may be issued a building permit. This program will reduce that time to a few days. The plans will also be approved through the building permit process, saving time and costs associated with building plan review.

The proposed code amendments include the following:

- Eliminate the noticing requirement for City sponsored pre-approved plans (defined as registered) when used in certain design review districts outside the Central City (program specific).
- Allow for the Design Review and Preservation Board to approve pre-approved (registered) house plans, to define the design review districts and lot characteristics where they may be used, and to remove plans from pre-approved (registered) status when determined to be appropriate.
- On R-1 zoned parcels that do not meet minimum standard lot widths of 52 feet for interior lots or 62 feet for corner lots, the required minimum interior side setback is proposed to be reduced from 5 feet to 3 feet. (This is currently permitted for lots of 40 feet in width or less). This allows additional width to permit wider homes, and is more in keeping with neighborhood character.
- To allow for slightly larger homes on smaller lots, in order to permit 3 and 4 bedroom homes, the current maximum lot coverage of 40% in the R-1 and R-2 zones is proposed to be changed to allow the maximum lot coverage of 40 percent or 2,500 square feet, whichever is greater; provided, that in no event shall lot coverage exceed 50 percent.
- To permit detached rear garages on narrow lots, allowable rear yard coverage for an accessory structure is proposed to be changed to be a maximum of 33% (current requirement) or 350 square feet, whichever is greater.

Project Approval Process:

Numerous community and advisory groups, the Disability Advisory Commission, Sacramento Housing and Redevelopment Commission, and Development Oversight Commission have reviewed the plans and code amendments. The Design Review and Preservation Board reviewed all the comments and recommended approval of the designs. The Planning Commission has forwarded their recommendation of approval of the amendments to Council.

After your Committee considers the ordinance amendments, the amendments will then be passed for publication of title, and a public hearing will be held on the Code Amendments and City Council consideration of the plans. After adoption of the Ordinance, the Design Review and Preservation Board will formally adopt the pre-approved house plans.

Concurrently, the consultants will complete the construction drawings for the plans, and they will be reviewed and adopted as master plans through the building plan review process. Plans should be available for sale by May 2006.

**Financial Considerations:**

Pre-approved house plan preparation was previously funded. The costs associated with administering the program will be less than the staff review and noticing costs associated with the design review process.

**Environmental Considerations:**

The proposed project is exempt from environmental review pursuant to State CEQA Guidelines (CEQA Section 15061(b)(3)). The proposed amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment.

**Policy Considerations:**

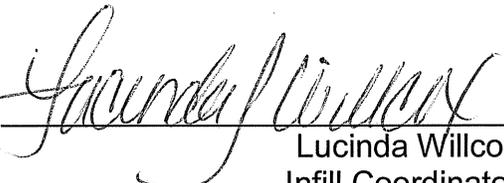
**General Plan Policy-** It is the policy of the City to promote infill development, rehabilitation, and reuse that contributes positively to the surrounding area and assists in meeting neighborhood and other City goals.

**Strategic Plan Implementation-** The recommended action conforms with the City of Sacramento Strategic Plan, specifically by adhering to the goal to enhance and preserve urban areas by supporting existing development (and supportive infrastructure) within existing developed areas, allowing for efficient use of existing facilities, features and neighborhoods.

**Emerging Small Business Development (ESBD):**

No goods or services are being purchased under this report.

Respectfully Submitted by:   
Ashley Feeney  
Assistant Planner

Approved by:   
Lucinda Willcox  
Infill Coordinator

Approved by:   
Carol Shearly  
Director of Planning

Recommendation Approved:



Gustavo F. Vina, Assistant City Manager

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# ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 17.60, 17.80, AND 17.132 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO SETBACKS, LOT COVERAGE AND REGISTERED HOUSE PLANS FOR SINGLE FAMILY DWELLINGS ON R-1 AND R-2 ZONED LOTS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.** Section 17.60.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix for the R-1 Zone set forth on line 2 of the Basic Height and Area Regulations Chart is amended to read as set forth below:

Zone	Location	Maximum Height(Ft.)	Front	Rear	Interior Side	Street Side	Required Minimum Court	Max Lot Coverage/ Bldg Size	Minimum Lot Area Per DU In Sq. Ft.
2. R-1	General	35 ft.	(1)	(2)	(3)	12 1/2 ft.	NA	(30)	5,200 I/ 6,200 C

B. The matrix for the R-2 Zone set forth on line 5 of the Basic Height and Area

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

Regulations Chart is amended to read as set forth below:

Zone	Location	Maximum Height (Ft.)	Front	Rear	Interior Side	Street Side	Required Minimum Court	Max Lot Coverage/ Bldg Size	Minimum Lot Area Per DU In Sq. St.
5. R-2	General	35 ft.	(1)	(2)	(3)	12 1/2 ft.	NA	(30)	2,600 I/ 3,100 C

C. Except as specifically amended for the use indicated, all other provisions of section 17.60.020 and the Basic Height and Area Regulations Chart remain unchanged and in full force and effect.

**SECTION 2.** Section 17.60.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (3) of section 17.60.030 is amended to read as follows:

3. Interior Side Yard Setback.

a. In the R-1 zone, the interior side yard setback shall be five (5) feet, except for interior lots having a width of less than fifty-two (52) feet and corner lots having a width of less than sixty-two (62) feet, where a three (3) foot setback shall apply.

b. In all zones other than the R-1 zone, the minimum side yard setback shall be three feet for single-family or two-family structures, or additions to existing residential structures having less than a five foot side yard. For new multi-family structures having three or more units or new or existing nonresidential development, the minimum side yard setback shall be five feet for buildings up to three stories in height. For buildings over three stories, the required minimum shall be increased by one foot for each story over three. Where a main entrance or main entrances to any dwelling unit is located along an interior side yard, the minimum width of the interior side yard shall be ten (10) feet.

B. Footnote (30) is added to section 17.60.030 to read as follows:

30. Maximum lot coverage in the R-1 and R-2 zones.

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

The maximum lot coverage in the R-1 and R-2 zones shall be forty percent (40%) or 2,500 square feet, whichever is greater; provided, that in no event shall lot coverage exceed fifty percent (50%).

C. Except as specifically amended by the amendments to footnote (3) and the addition of footnote (30), all other provisions of section 17.60.030 remain unchanged and in full force and effect.

**SECTION 3.** Section 17.80.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (3) of section 17.80.050 is amended to read as follows:

3. Maximum Lot Coverage of Required Rear Yard.

a. Except as provided in section 17.80.050(3)(b) below, no more than thirty-three (33) percent of the surface area of the required rear yard setback may be covered by accessory structures.

b. In the R-1 and R-2 zones, no more than thirty-three percent (33%) or 350 square feet, whichever is greater, of the surface area of the required rear yard setback may be covered by accessory structures.

c. Uncovered/unenclosed swimming pools, spas, and hot tubs (including equipment placed at ground level, or on a concrete pad at ground level), uncovered patios and uncovered decks under thirty (30) inches high (measured from ground to top of deck) are not counted in the lot coverage computation.

B. Except as specifically amended by the amendments to footnote (3), all other provisions of section 17.80.050 remain unchanged and in full force and effect.

**SECTION 4.** Section 17.132.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Section 17.132.020 is amended to add the definition of “registered house plans” to read as follows:

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

“Registered house plans” means house plans that have been previously approved and registered with the City pursuant to this chapter.

B. Except as specifically amended in this Section 4, all other provisions of section 17.132.0200 remain unchanged and in full force and effect.

**SECTION 5.** Section 17.132.037 is added to Title 17 of the Sacramento City Code (the Zoning Code) to read as follows:

17.132.037 Approval and use of registered house plans.

A. The board shall have the authority to approve registered house plans for one or more design review districts as set forth in this section. Use of registered house plans for development in the designated design review district will exempt the development from further design review as provided in Section 17.132.040(B)(1).

1. Any person may request approval of registered house plans by filing an application with the director. The application shall be subject to and governed by chapter 17.196.

2. A request to approve registered house plans may also be initiated by the director.

3. The director shall conduct a preliminary review of the proposed registered house plans and prepare a written evaluation and recommendation of approval, conditional approval, or disapproval of the proposed plans. A copy of the written evaluation and recommendation shall be submitted to the applicant, if any, and shall be forwarded to the board for hearing and decision.

4. At least one public hearing shall be held by the board on a request to approve registered house plans. Notice of the hearing shall be given pursuant to section 2.112.110 and to the applicant, if any. At the conclusion of the hearing, the board may approve, conditionally approve, or deny the request for approval of registered house plans.

5. In reaching its decision, the board shall evaluate each proposal for registered house plans in accordance with the citywide design review guidelines plan, the design review guidelines plan for the district or districts for which the registered house plan is intended, the findings and declaration of purpose contained in Section 17.132.010 of this chapter, and any other applicable adopted land use plans. The board shall not approve a

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

proposal for registered house plans unless it finds that the design (as it may have been modified or conditioned by the board) is consistent with the applicable plans and the purpose of this chapter. The board shall specify for which design review district or districts the registered house plan is approved for purposes of the exemption from further design review under Section 17.132.040(B)(1).

6. On its own initiative, or at the request of the director, the board may cancel the registration of registered house plans as it deems appropriate to ensure a variety in the housing stock and to otherwise further the purpose of this chapter. The cancellation of the registration of registered house plans shall be subject to the same notice and hearing requirements as apply to the approval of registered house plans.

B. The director shall establish policies and procedures addressing the development, approval, and use of registered house plans consistent with the purpose of this chapter.

**SECTION 6.** Subsection 17.132.040(B)(1) of Title 17 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

1. Single-family or two-family residential, including appurtenances and accessory structures. This includes new construction, additions, rehabilitations and repairs.

a. Exception—Expanded North Area Design Review District. Additions and exterior modifications to existing one and two family dwellings where the proposed changes are not visible from any street view are exempt from the requirements of design review.

b. Exception—New construction of a single-family residential unit utilizing, without material deviation, registered house plans approved for use in the design review district where the proposed construction is located shall be exempt from the requirements of design review.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

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FOR CITY CLERK USE ONLY

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

11

**Redlined**  
**ORDINANCE NO.**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 17.60, 17.80, AND 17.132 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO SETBACKS, LOT COVERAGE AND REGISTERED HOUSE PLANS FOR SINGLE FAMILY DWELLINGS ON R-1 AND R-2 ZONED LOTS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.** Section 17.60.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix for the R-1 Zone set forth on line 2 of the Basic Height and Area Regulations Chart is amended to read as set forth below:

Zone	Location	Maximum Height (Ft.)	Front	Rear	Interior Side	Street Side	Required Minimum Court	Max Lot Coverage/ Bldg Size	Minimum Lot Area Per DU In Sq. St.
2. R-1	General	35 ft.	(1)	(2)	(3)	12 1/2 ft.	NA	40% <del>(30)</del>	5,200 I/ 6,200 C

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

B. The matrix for the R-2 Zone set forth on line 5 of the Basic Height and Area Regulations Chart is amended to read as set forth below:

Zone	Location	Maximum Height (Ft.)	Front	Rear	Interior Side	Street Side	Required Minimum Court	Max Lot Coverage/ Bldg Size	Minimum Lot Area Per DU In Sq. St.
5. R-2	General	35 ft.	(1)	(2)	(3)	12 1/2 ft.	NA	40% (30)	2,600 I/ 3,100 C

C. Except as specifically amended for the use indicated, all other provisions of section 17.60.020 and the Basic Height and Area Regulations Chart remain unchanged and in full force and effect.

**SECTION 2.** Section 17.60.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (3) of section 17.60.030 is amended to read as follows:

3. Interior Side Yard Setback.

a. In the R-1 zone, the interior side yard setback shall be five (5) feet, except for interior lots having a width of ~~forty (40) feet or less than fifty-two (52) feet~~ and corner lots having a width of less than sixty-two (62) feet, where a three (3) foot setback shall apply.

b. In all zones other than the R-1 zone, the minimum side yard setback shall be three feet for single-family or two-family structures, or additions to existing residential structures having less than a five foot side yard. For new multi-family structures having three or more units or new or existing nonresidential development, the minimum side yard setback shall be five feet for buildings up to three stories in height. For buildings over three stories, the required minimum shall be increased by one foot for each story over three. Where a main entrance or main entrances to any dwelling unit is located along an interior side yard, the minimum width of the interior side yard shall be ten (10) feet.

FOR CITY CLERK USE ONLY

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

B. Footnote (30) is added to section 17.60.030 to read as follows:

30. Maximum lot coverage in the R-1 and R-2 zones.

The maximum lot coverage in the R-1 and R-2 zones shall be forty percent (40%) or 2,500 square feet, whichever is greater; provided, that in no event shall lot coverage exceed fifty percent (50%).

C. Except as specifically amended by the amendments to footnote (3) and the addition of footnote (30), all other provisions of section 17.60.030 remain unchanged and in full force and effect.

**SECTION 3.** Section 17.80.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (3) of section 17.80.050 is amended to read as follows:

3. Maximum Lot Coverage of Required Rear Yard.

~~Noa.~~ Except as provided in section 17.80.050(3)(b) below, no more than thirty-three (33) percent of the surface area of the required rear yard setback may be covered by accessory structures.

b. In the R-1 and R-2 zones, no more than thirty-three percent (33%) or 350 square feet, whichever is greater, of the surface area of the required rear yard setback may be covered by accessory structures.

c. Uncovered/unenclosed swimming pools, spas, and hot tubs (including equipment placed at ground level, or on a concrete pad at ground level), uncovered patios and uncovered decks under thirty (30) inches high (measured from ground to top of deck) are not counted in the lot coverage computation.

B. Except as specifically amended by the amendments to footnote (3), all other provisions of section 17.80.050 remain unchanged and in full force and effect.

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FOR CITY CLERK USE ONLY

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

**SECTION 4.** Section 17.132.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Section 17.132.020 is amended to add the definition of “registered house plans” to read as follows:

“Registered house plans” means house plans that have been previously approved and registered with the City pursuant to this chapter.

B. Except as specifically amended in this Section 4, all other provisions of section 17.132.0200 remain unchanged and in full force and effect.

**SECTION 5.** Section 17.132.037 is added to Title 17 of the Sacramento City Code (the Zoning Code) to read as follows:

17.132.037 Approval and use of registered house plans.

A. The board shall have the authority to approve registered house plans for one or more design review districts as set forth in this section. Use of registered house plans for development in the designated design review district will exempt the development from further design review as provided in Section 17.132.040(B)(1).

1. Any person may request approval of registered house plans by filing an application with the director. The application shall be subject to and governed by chapter 17.196.

2. A request to approve registered house plans may also be initiated by the director.

3. The director shall conduct a preliminary review of the proposed registered house plans and prepare a written evaluation and recommendation of approval, conditional approval, or disapproval of the proposed plans. A copy of the written evaluation and recommendation shall be submitted to the applicant, if any, and shall be forwarded to the board for hearing and decision.

4. At least one public hearing shall be held by the board on a request to approve registered house plans. Notice of the hearing shall be given pursuant to section 2.112.110 and to the applicant, if any. At the conclusion of the hearing, the board may approve, conditionally approve, or deny the request for approval of registered house plans.

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

5. In reaching its decision, the board shall evaluate each proposal for registered house plans in accordance with the citywide design review guidelines plan, the design review guidelines plan for the district or districts for which the registered house plan is intended, the findings and declaration of purpose contained in Section 17.132.010 of this chapter, and any other applicable adopted land use plans. The board shall not approve a proposal for registered house plans unless it finds that the design (as it may have been modified or conditioned by the board) is consistent with the applicable plans and the purpose of this chapter. The board shall specify for which design review district or districts the registered house plan is approved for purposes of the exemption from further design review under Section 17.132.040(B)(1).

6. On its own initiative, or at the request of the director, the board may cancel the registration of registered house plans as it deems appropriate to ensure a variety in the housing stock and to otherwise further the purpose of this chapter. The cancellation of the registration of registered house plans shall be subject to the same notice and hearing requirements as apply to the approval of registered house plans.

B. The director shall establish policies and procedures addressing the development, approval, and use of registered house plans consistent with the purpose of this chapter.

**SECTION 6.** Subsection 17.132.040(B)(1) of Title 17 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

1. Single-family or two-family residential, including appurtenances and accessory structures. This includes new construction, additions, rehabilitations and repairs.

a. Exception—Expanded North Area Design Review District. Additions and exterior modifications to existing one and two family dwellings where the proposed changes are not visible from any street view are exempt from the requirements of design review.

b. Exception—New construction of a single-family residential unit utilizing, without material deviation, registered house plans approved for use in the design review district where the proposed construction is located shall be exempt from the requirements of design review.

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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DATE PASSED FOR PUBLICATION:  
DATE ENACTED:  
DATE EFFECTIVE:

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MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_



**REPORT TO LAW AND LEGISLATION  
COMMITTEE  
City of Sacramento**

**915 I Street, Sacramento, CA 95814-2671  
www.cityofsacramento.org**

4.0

**STAFF REPORT  
March 7, 2006**

Honorable Members of the  
Law and Legislation Committee

**Subject:** Modifications to Construction Code Appeals Process

**Location/Council District:** Citywide

**Recommendation:**

It is recommended that the Law and Legislation Committee approve the revision of Title 2, Chapter 2.48 of the Sacramento City Code to permit the establishment of a streamlined, two tiered code appeals process consisting of one (1) Administrative Appeals Board and three (3) Specialty Boards of Appeal, and forward this report to City Council for their action.

**Contact:** Ron Beehler, Chief Building Official, 808-8024

**Presenters:** Ron Beehler, Chief Building Official, 808-8024

**Department:** Development Services

**Division:** Building Division

**Organization No:** 4861

**Summary:**

In order to provide an efficient method for resolution of disputes concerning alternate materials and methods of construction, and to provide a timely process for appeals of orders or decisions of the Chief Building Official and Fire Marshal, it is recommended that the Law and Legislation Committee approve the proposed modifications of the Construction Codes Advisory and Appeals Board.

**Committee/Commission Action:**

On August 22, 2005 the Development Oversight Commission unanimously passed a motion in support of the proposed modification to the existing Construction Code Advisory and Appeal Board.

**Background:**

Title 2, Chapter 2.48 of the Sacramento City Code established the current Construction Codes Advisory and Appeals Board to consider code appeals of applicants where existing specialty codes requirements created unnecessary practical difficulties and hardships for their construction projects. The Development Services Department has reviewed the current code appeal process, and has found that it is not well developed and no longer provides the best level of service to customers. Many development projects have been proposed for future construction in Sacramento, and without an efficient appeals process in place, there may be significant limitations to the design of future buildings. Establishing a comprehensive code appeals process will streamline the processing of building, electrical, plumbing, and mechanical permits for developers and owners. The proposed two (2) tiered appeal process will provide a reasonable and efficient review process for those applicants seeking interpretation of building regulations as well as approval of alternate designs, materials or construction methods. Below is a table that demonstrates the current and proposed code appeals processes.

<b>Current Construction Code Appeals Process</b>	<b>Proposed Two Tiered Construction Code Appeals Process</b>
One-tiered	Two-tiered
No Administrative Appeals Board	First Tier – A three member Building Codes Administrative Appeals Board meets weekly
One nine-member Construction Codes Advisory and Appeals Board	Second Tier - Three three-member specialized boards
No time frame defined	Specialized boards meeting to be scheduled within 21 days of receipt of application.

Proposed Two Tiered Construction Code Appeals Process

In order to determine the suitability of alternate designs, materials and methods of construction, as well as provide for a reasonable interpretation and application of building regulations, the Development Services Department proposes the creation of a Building Codes Administrative Appeals Board, Building and Fire Code Advisory and Appeals Board, Electrical Code Advisory and Appeals Board, and Mechanical and Plumbing Code Advisory and Appeals Board to provide fair and efficient processing of all specialty code permits. Members of each appeal entity shall be qualified to serve based on their experience and training in matters pertaining to building design and construction, fire prevention, and electrical, plumbing and mechanical system design and construction.

The authority of the proposed Boards will be to determine if a proposed design satisfactorily complies with the provisions of the applicable code(s) and that the material and/or method of work offered is, for the purpose intended, at least the equivalent of that prescribed by the applicable code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation. The Boards may require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the proposed use or method of design. The Boards may also hear and decide appeals of orders, decisions or determinations made by the Chief Building Official and Fire Marshal relative to the application and interpretation of the codes. The Boards do not have the authority to waive requirements of the codes, and will render all decision and findings in writing.

### Proposed First Tier of the Code Appeal Process

The first tier, the Building Codes Administrative Appeals Board, will be a new board composed of three staff members that will meet weekly to offer the appellant a quick and inexpensive response. Upon receipt of a properly completed appeal application and payment of the required fee, the Chief Building Official will schedule the item for the next weekly Building Codes Administrative Appeals Board hearing. The Chief Building Official may affirm, modify, or deny the proposed alternate design, method, or material; as well as the application or interpretation of building codes and regulations. For substantive and complex appeals the Chief Building Official will have the option of forwarding the appeal directly to the appropriate specialty Boards of Appeal without ruling at the administrative level. If the appellant is not satisfied with the decision of the Building Codes Administrative Appeals Board, and an acceptable alternative cannot be negotiated, the appellant has the option of requesting a hearing before the appropriate specialty Advisory and Appeals Board. Notice of appeal by the applicant must be submitted in writing and filed with the Department of Development Services within fourteen (14) days of the action by the Building Codes Administrative Appeals Board.

Composition of the Building Codes Administrative Appeals Board (Closed Weekly Hearings):

- Chief Building Official or designated alternate
- Plans Review Manager or designated alternate
- Fire Marshal or designated alternate

### Proposed Second Tier of the Code Appeals Process

The second tier of the appeals process is three specialized boards (one for building, fire and accessibility issues, one for mechanical and plumbing issues, and one for electrical issues) that will replace the current Construction Codes Advisory and Appeals Board. The second tier, referred to as the Building Codes Advisory and Appeal Boards, will require a public hearing before a specialty board made up of qualified individuals from the private sector that have knowledge in the specific code area being appealed. The Building Codes Advisory and Appeal Boards will meet quarterly, additional monthly meetings will be held on an as needed basis. An appeal hearing before the Building Codes Advisory and Appeal Boards will be scheduled within 21 days after filing of an

appeal application or referral from the Chief Building Official. Upon receipt of a completed appeal application and payment of the required fee, the Chief Building Official will notice the time, date and place of the hearing by U.S. mail to the appellant. The appellant or designee must be present at the Building Codes Advisory and Appeal Boards hearing. After hearing the appeal, the Building Codes Advisory and Appeal Boards may affirm, modify, and/or deny the proposed alternate method or material, and/or the decision of determination made by the Chief Building Official or Fire Marshal. The decision of the Building Codes Advisory and Appeal Boards may be appealed to the City Council.

#### Composition of the Proposed Building Codes Advisory and Appeal Boards

- A. Building and Fire Code Advisory and Appeals Board (Open Hearings)
  - Experienced Real Estate Developer
  - General Building Contractor
  - California Registered Architect
  - California Registered Structural Engineer
  - California Licensed Fire Protection Engineer
  - Accessibility Member, with extensive background with accessibility laws and regulations (accessibility related appeals only)
- B. Electrical Code Advisory and Appeals Board (Open Hearings)
  - California Registered Electrical Engineer
  - California Licensed Electrical Contractor
  - Electrical Testing Lab Representative
- C. Mechanical and Plumbing Code Advisory and Appeals Board (Open Hearings)
  - California Registered Mechanical Engineer
  - California Licensed Plumbing Contractor
  - California Licensed Mechanical Contractor

Each board will be composed of at least 3 professionals from each specialty group; membership terms for each appeal entity will be for 3 years. Qualified alternates will also be appointed for each regular member; alternates will attend meetings and vote when regular members are unavailable. The designated alternate members will have the same authority as the main members. The proposed Building and Fire Code Advisory and Appeals Board will have six members with alternates, one member and alternate of this Board will include a member with expertise in accessibility issues. The accessibility member will only participate in issues related to physical access. No member, serving on any board, may act on or hear a case in which she/he has an interest. If such a case comes before the Board, the member's alternate shall attend. Any Appeals Board member may be removed from office by the Mayor for due cause, such as malfeasance in office, incapacity, or neglect of duty.

**Financial Considerations:**

This report has no financial consideration as it will be discussed as part of the application fee resolution. If the new boards are approved by the city council, the compensation committee will establish the compensation of board members.

**Environmental Considerations:**

This report is not related to a project; therefore environmental review is not required.

**Policy Considerations:**

The Law and Legislation Committee should consider improving the code appeal process by creating a more responsive and efficient processing methodology to allow developers and owners a forum to request code interpretations and the approval of alternative designs, materials and/or construction methods. Staff recommends that the Law and Legislation Committee support the establishment of the proposed Building Codes Administrative Appeals Board and the creation of the three (3) proposed specialty code Advisory and Appeal Boards. These changes are consistent with each of the four goals of the City's three-year strategic plan.

**Emerging Small Business Development (ESBD):**

No goods or services are being purchased under this report.

Respectfully Submitted by: Robert M. Atkinson  
for Ron Beehler,  
Chief Building Official

Approved by: William A. Thomas  
William Thomas  
Director of Development Services

Recommendation Approved:

for Gustavo F. Vina  
Gustavo F. Vina,  
Assistant City Manager

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ORDINANCE NO.  
ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 2.40.030 OF THE  
SACRAMENTO CITY CODE, AND REPEALING AND RE-ENACTING  
CHAPTER 2.48 OF THE SACRAMENTO CITY CODE TO CREATE THE  
BUILDING AND FIRE CODE ADVISORY AND APPEALS BOARD**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Section 2.40.030 of the Sacramento City Code is amended to read as follows:

**2.40.030 Applicability.**

The provisions of this article shall apply to persons recommended to the mayor by the personnel and public employees committee as appointees for positions on the city council and the following boards and commissions:

Administration, investment and fiscal management board of the Sacramento city retirement system;

Civil service board;

~~Construction code advisory and appeals board;~~

Building and fire code advisory board;

Design review and preservation board;

Electrical code advisory and appeals board;

Housing code advisory and appeals board;

Mechanical code advisory and appeals board;

Old Sacramento variance appeals board;

Planning commission;

Retirement hearing commission; and

Sacramento city public facilities financing corporation; and

Board of plumbing examiners.

**SECTION 2.**

Chapter 2.48 of the Sacramento City Code is hereby repealed in its entirety.

**SECTION 3.**

Chapter 2.48 is added to the Sacramento City Code, to read as follows:

**Chapter 2.48**

**BUILDING AND FIRE CODE ADVISORY AND APPEALS BOARD**

**2.48.010 Board established.**

The City of Sacramento Building and Fire Code Advisory and Appeals Board is hereby established.

**2.48.020 Definitions.**

As used in this chapter, the following words and phrases shall have the meaning given them in this section, unless the context clearly requires otherwise:

“City” means the City of Sacramento.

“City Council” means the City Council of the City of Sacramento.

“Board” means the Building and Fire Code Advisory and Appeals Board.

“Mayor” means the Mayor of the City of Sacramento.

**2.48.030 Powers and duties of Board.**

A. The Board is established for the purpose of determining the suitability of alternate materials and methods of construction and providing reasonable interpretations of the following codes, as they are currently written or as they may be amended in the future:

1. 2001 California Building Code;
2. 2001 California Fire Code.

The Board’s powers and duties shall extend to any code or codes duly adopted by the California Building Standards Commission that supersede the 2001 California Building and Fire Codes.

B. The Board may approve the use of any material, alternate design or method of construction not specifically prescribed by the applicable codes enumerated in this section, provided the Board finds that the proposed design is satisfactory and complies with the provisions of the applicable codes and that the material, method or work offered

is, for the purpose intended, at least the equivalent of that prescribed in the applicable codes in suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation. The Board shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

C. The Board shall have no authority relative to interpretation of the administrative provisions of these codes nor shall the Board be empowered to waive requirements of these codes. Any cost for tests or research required by the Board to substantiate the claim of any appellant shall be the sole responsibility of the appellant.

#### **2.48.040 Board Membership.**

The Board shall consist of six members and six alternates to those members, appointed by the Mayor with the approval of the City Council, subject to the following requirements:

- A. One member and one alternate to that member, each of whom is a real estate developer who has completed at least two projects in California in the five years preceding appointment; each project must have a total valuation in excess of five million dollars.
- B. One member and one alternate to that member, each of whom is a California licensed general building contractor who has been a primary general contractor on construction projects in the City during the two years immediately preceding appointment;
- C. One member and one alternate to that member, each of whom is a California registered architect who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- D. One member and one alternate to that member, each of whom is a California registered structural engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- E. One member and one alternate to that member, each of whom is a California licensed fire protection engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- F. One member and one alternate to that member, each of whom shall have experience with the accessibility requirements set forth in the California Building Code.

#### **2.48.050 Term of Office.**

Members of the Board shall serve a term of three years. In order to establish staggered terms, the initial appointments of members shall include two members and two alternates to those members for a one-year term, two members and two alternates to those members for a two-year term, and two members and two alternates to those members for a three-year term, as determined by the City Clerk based on the drawing of lots. No member or alternate shall serve more than two consecutive terms, whether as a member or alternate. In the event a vacancy occurs during the term of any member or alternate, the Mayor shall appoint, with the approval of the City Council, a successor to serve the unexpired term, subject to the requirements set forth in Section 2.48.040. A member or alternate shall hold office until his or her successor has been appointed. A successor appointed to complete an unexpired term shall be eligible to serve up to two consecutive terms in addition to the unexpired term.

**2.48.060 Conflict of Interest and Financial Disclosure Statements.**

The provisions of Article III of Chapter 2.16 of this Code governing conflicts of interest of board and commission members shall apply to members of the Board. In addition, all appointees to the Board shall be required to file statements disclosing financial interests pursuant to a conflict of interest code adopted for the Board.

**2.48.070 Chairperson and Organization of the Board.**

At its first meeting, and annually thereafter, the Board shall elect a Board chairperson and a vice-chairperson, each of whom shall hold office at the pleasure of the Board. During any absence of the chairperson from a meeting of the Board, the vice-chairperson shall be the acting chairperson until the chairperson returns. When there is a vacancy in the office of chairperson or vice chairperson, the Board shall fill that office from among its members. Staff support to the Board shall be provided by one or more city employees designated by the City Manager.

**2.48.080 Board Meetings.**

The Board shall meet as often as necessary for the transaction of its business. The meetings shall be noticed and held in accordance with the provisions of the Ralph M. Brown Act (Government Code section 54950 et seq). The Board shall have the authority to notice and hold special meetings in the manner specified by the Ralph M. Brown Act.

**2.48.090 Rules and Regulations.**

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official.

#### **2.48.100 Quorum; Voting.**

The quorum required for the Board to conduct business shall be three members. The affirmative vote of a majority of the members present and eligible to vote shall be necessary to approve any item. The member appointed pursuant to Section 2.48.040(F) shall only be eligible to vote on items that, in the discretion of the chairperson or in the absence of the chairperson, the vice-chairperson, involve accessibility requirements of the California Building Code.

#### **2.48.110 Review by Building Official.**

A. The Building Official shall establish policies and procedures that provide for Building Official review of staff-level decisions regarding the use of any material, alternate design or method of construction not specifically prescribed in the California Building Code or the California Fire Code. These policies and procedures shall require the Building Official to provide a written decision within fourteen calendar days of the filing of a completed request for Building Official review. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested. Requests for Building Official review shall be submitted on a form prescribed by the Building Official. Any person aggrieved by the Building Official's decision may appeal therefrom to the Board as provided in Section 2.48.120(A).

B. At any time within fourteen calendar days of the filing of a completed request for Building Official review, the Building Official may refer the request to the Board for determination. In such a case, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.48.130.

C. In the event the Building Official does not issue a written decision or refer a request to the Board within fourteen calendar days of the filing of a completed request for Building Official review, the staff-level decision shall become a final decision from which any aggrieved person may appeal to the Board as provided in Section 2.48.120(A). The staff-level decision shall be deemed final on the fifteenth calendar day following the filing of the completed request for review; provided, however, if the fifteenth calendar day falls on a Saturday, Sunday, or legal holiday, the decision shall be deemed made on the next following business day.

#### **2.48.120 Appeals to Board.**

A. Any person aggrieved by the decision of the Building Official issued pursuant to Section 2.48.110(A) or a staff-level decision that becomes a final decision pursuant to Section 2.48.110(C) may appeal therefrom to the Board at any time within fourteen calendar days after receiving notice of the Building Official's decision or after the staff-level decision becomes final pursuant to Section 2.48.110(C). Such an appeal is taken by filing notice of appeal with the Building Official on a form provided by, and available from, the Building Official and payment of a fee as established by resolution of the City

Council. All supporting documents must be submitted with the form at the time the appeal is filed.

B. Notwithstanding Subsection (A), no person shall be allowed to appeal a staff-level decision regarding the use of any material, alternate design or method of construction not specifically prescribed in the California Building Code or the California Fire Code to the Board unless (1) the person submitted a completed request for Building Official review as required by Section 2.48.110(A) and (2) the Building Official failed to either provide a written decision or refer the request to the Board within fourteen calendar days of the filing of the completed request for review.

C. Failure to properly file a written appeal as required under Subsection (A) will constitute a waiver of all right to an appeal hearing before the Board, and the decision of the Building Official or the staff-level decision will be final. Failure to properly and timely appeal pursuant to Subsection (A) also shall constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the staff-level decision or decision of the Building Official.

D. Notwithstanding any other provision of this Chapter, the Board does not have jurisdiction to hear appeals of decisions relating to access for physically handicapped persons to public facilities and accommodations. Any staff-level decision that becomes a final decision pursuant to Section 2.48.110(C) or decision of the Building Official relating to access for physically handicapped persons to public facilities and accommodations shall be appealed to the Joint City/County Disabilities Appeals Board pursuant to Chapter 2.52 of the Sacramento City Code rather than the Board.

#### **2.48.130 Hearings.**

The Building Official shall schedule a hearing to be held within twenty-one calendar days after the filing of a request for a hearing pursuant to Section 2.48.120(A). In the event the Building Official refers a request to the Board pursuant to Section 2.48.110(B), the Building Official shall schedule a hearing to be held within twenty-one calendar days of the referral. The Building Official shall not later than ten calendar days prior to the hearing give notice of the time, place, and subject matter of the hearing to the person filing the appeal and each member of the Board. The hearing shall be conducted according to the rules and regulations adopted by the Board. The Board shall render all decisions and findings in writing. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested.

#### **2.48.140 Appeals to City Council.**

A. Any person aggrieved by the decision rendered by the Board in an appeal hearing held pursuant to Section 2.48.130, may appeal the decision to the City Council in accordance with Chapter 1.24. The appeal shall be made by filing a written notice

thereof with the City Clerk not later than fourteen calendar days after receiving notice of the decision of the Board. The City Council shall hold a hearing on the appeal and its decision thereon shall be final. Instead of hearing the appeal, the City Council may refer the matter to a hearing examiner pursuant to Chapter 1.24, in which case the hearing examiner's decision shall be final.

B. Failure to properly file a written appeal of the decision of the Board within fourteen calendar days of the decision will constitute a waiver of all right to an appeal hearing before the City Council, and the Board's decision will be final. Failure to properly and timely appeal the Board's decision also shall constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the Board's decision.

**2.48.150 Compensation.**

Pursuant to City Charter Section 29, the Compensation Commission shall establish the compensation members of the Board receive for attending Board meetings.

**2.48.160 General Requirements.**

Unless specifically provided otherwise in this chapter, the general requirements set forth in Chapter 2.40 of this code, governing the appointment of board and commission members, attendance at board and commission meetings, voting, term limits and removal, shall apply to the Board. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

ORDINANCE NO.  
ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE ADDING CHAPTER 2.49 TO THE SACRAMENTO  
CITY CODE TO CREATE THE MECHANICAL AND PLUMBING CODE  
ADVISORY AND APPEALS BOARD**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Chapter 2.49 is added to the Sacramento City Code, to read as follows:

**Chapter 2.49**

**MECHANICAL AND PLUMBING CODE ADVISORY AND APPEALS BOARD**

**2.49.010 Board established.**

The City of Sacramento Mechanical and Plumbing Code Advisory and Appeals Board is hereby established.

**2.49.020 Definitions.**

As used in this chapter, the following words and phrases shall have the meaning given them in this section, unless the context clearly requires otherwise:

“City” means the City of Sacramento.

“City Council” means the City Council of the City of Sacramento.

“Board” means the Mechanical and Plumbing Code Advisory and Appeals Board.

“Mayor” means the Mayor of the City of Sacramento.

**2.49.030 Powers and duties of Board.**

The Board is established for the purpose of determining the suitability of alternate materials and methods of construction and providing reasonable interpretations of the following codes, as they are currently written or as they may be amended in the future:

- A. 2001 California Mechanical Code;
- B. 2001 California Plumbing Code.

The Board's powers and duties shall extend to any code or codes duly adopted by the California Building Standards Commission that supercede the 2001 California Mechanical and Plumbing Codes.

The Board may approve the use of any material, alternate design or method of construction not specifically prescribed by the applicable codes enumerated in this section, provided the Board finds that the proposed design is satisfactory and complies with the provisions of the applicable codes and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the applicable codes in suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation. The Board shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

The Board shall have no authority relative to interpretation of the administrative provisions of these codes nor shall the Board be empowered to waive requirements of these codes. Any cost for tests or research required by the Board to substantiate the claim of any appellant shall be the sole responsibility of the appellant.

#### **2.49.040 Board Membership.**

The Board shall consist of three members and three alternates to those members, appointed by the Mayor with the approval of the City Council, subject to the following requirements:

- A. One member and one alternate to that member, each of whom is a California registered mechanical engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- B. One member and one alternate to that member, each of whom is a California licensed plumbing contractor who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- C. One member and one alternate to that member, each of whom is a California licensed mechanical contractor who has been licensed and has practiced in California for at least three years immediately preceding appointment.

**2.49.050 Term of Office.**

Members of the Board shall serve a term of three years. In order to establish staggered terms, the initial appointments of members shall include one member and one alternate to that member for a one-year term, one member and one alternate to that member for a two-year term, and one member and one alternate to that member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member or alternate shall serve more than two consecutive terms, whether as a member or alternate. In the event a vacancy occurs during the term of any member or alternate, the Mayor shall appoint, with the approval of the City Council, a successor to serve the unexpired term, subject to the requirements set forth in Section 2.49.040. A member or alternate shall hold office until his or her successor has been appointed. A successor appointed to complete an unexpired term shall be eligible to serve up to two consecutive terms in addition to the unexpired term.

**2.49.060 Conflict of Interest and Financial Disclosure Statements.**

The provisions of Article III of Chapter 2.16 of this Code governing conflicts of interest of board and commission members shall apply to members of the Board. In addition, all appointees to the Board shall be required to file statements disclosing financial interests pursuant to a conflict of interest code adopted for the Board.

**2.49.070 Chairperson and Organization of the Board.**

At its first meeting, and annually thereafter, the Board shall elect a Board chairperson and a vice chairperson, who each shall hold office at the pleasure of the Board. During any absence of the chairperson from a meeting of the Board, the vice-chairperson shall be the acting chairperson until the chairperson returns. When there is a vacancy in the office of chairperson or vice chairperson, the Board shall fill that office from among its members. Staff support to the Board shall be provided by one or more city employees designated by the City Manager.

**2.49.080 Board Meetings.**

The Board shall meet as often as necessary for the transaction of its business. The meetings shall be noticed and held in accordance with the provisions of the Ralph M. Brown Act (Government Code section 54950 et seq). The Board shall have the authority to notice and hold special meetings in the manner specified by the Ralph M. Brown Act.

**2.49.090 Rules and Regulations.**

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the building official.

**2.49.100 Quorum; Voting.**

The quorum required for the Board to conduct business shall be two members. The affirmative vote of a majority of the members present and eligible to vote shall be necessary to approve any item.

**2.49.110 Review by Building Official.**

A. The Building Official shall establish policies and procedures that provide for Building Official review of staff-level decisions regarding the use of any material, alternate design or method of construction not specifically prescribed in the California Mechanical Code or the California Plumbing Code. These policies and procedures shall require the Building Official to provide a written decision within fourteen calendar days of the filing of a completed request for Building Official review. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested. Requests for Building Official review shall be submitted on a form prescribed by the Building Official. Any person aggrieved by the Building Official's decision may appeal therefrom to the Board as provided in Section 2.49.120(A).

B. At any time within fourteen calendar days of the filing of a completed request for Building Official review, the Building Official may refer the request to the Board for determination. In such a case, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.49.130.

C. In the event the Building Official does not issue a written decision or refer a request to the Board within fourteen calendar days of the filing of a completed request for Building Official review, the staff-level decision shall become a final decision from which any aggrieved person may appeal to the Board as provided in Section 2.49.120(A). The staff-level decision shall be deemed final on the fifteenth calendar day following the filing of the completed request for review; provided, however, if the fifteenth calendar day falls on a Saturday, Sunday, or legal holiday, the decision shall be deemed made on the next following business day.

**2.49.120 Appeals to Board.**

A. Any person aggrieved by the decision of the Building Official issued pursuant to Section 2.49.110(A) or a staff-level decision that becomes a final decision pursuant to Section 2.49.110(C) may appeal therefrom to the Board at any time within fourteen calendar days after receiving notice of the Building Official's decision or after the staff-level decision becomes final pursuant to Section 2.49.110(C). Such an appeal is taken by filing notice of appeal with the Building Official on a form provided by, and available from, the Building Official and payment of a fee as established by resolution of the City

Council. All supporting documents must be submitted with the form at the time the appeal is filed.

B. Notwithstanding Subsection (A), no person shall be allowed to appeal a staff-level decision regarding the use of any material, alternate design or method of construction not specifically prescribed in the California Building Code or the California Fire Code to the Board unless (1) the person submitted a completed request for Building Official review as required by Section 2.49.110(A) and (2) the Building Official failed to either provide a written decision or refer the request to the Board within fourteen calendar days of the filing of the completed request for review.

C. Failure to properly file a written appeal as required under Subsection (A) will constitute a waiver of all right to an appeal hearing before the Board, and the decision of the Building Official or the staff-level decision will be final. Failure to properly and timely appeal pursuant to Subsection (A) also shall constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the staff-level decision or decision of the Building Official.

#### **2.49.130 Hearings.**

The Building Official shall schedule a hearing to be held within twenty-one calendar days after the filing of a request for a hearing pursuant to Section 2.49.120(A). In the event the Building Official refers a request to the Board pursuant to Section 2.49.110(B), the Building Official shall schedule a hearing to be held within twenty-one calendar days of the referral. The Building Official shall not later than ten calendar days prior to the hearing give notice of the time, place, and subject matter of the hearing to the person filing the appeal and each member of the Board. The hearing shall be conducted according to the rules and regulations adopted by the Board. The Board shall render all decisions and findings in writing. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested.

#### **2.49.140 Appeals to City Council.**

A. Any person aggrieved by the decision rendered by the Board in an appeal hearing held pursuant to Section 2.49.130, may appeal the decision to the City Council in accordance with Chapter 1.24. The appeal shall be made by filing a written notice thereof with the City Clerk not later than fourteen calendar days after receiving notice of the decision of the Board. The City Council shall hold a hearing on the appeal and its decision thereon shall be final. Instead of hearing the appeal, the City Council may refer the matter to a hearing examiner pursuant to Chapter 1.24, in which case the hearing examiner's decision shall be final.

B. Failure to properly file a written appeal of the decision of the Board within fourteen calendar days of the decision will constitute a waiver of all right to an appeal

hearing before the City Council, and the Board's decision will be final. Failure to properly and timely appeal the Board's decision also shall constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the Board's decision.

**2.49.150 Compensation.**

Pursuant to City Charter Section 29, the Compensation Commission shall establish the compensation members of the Board receive for attending Board meetings.

**2.49.160 General Requirements.**

Unless specifically provided otherwise in this chapter, the general requirements set forth in Chapter 2.40 of this code, governing the appointment of board and commission members, attendance at board and commission meetings, voting, term limits and removal, shall apply to the Board. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

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MAYOR

ATTEST:

---

CITY CLERK

ORDINANCE NO.  
ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE ADDING CHAPTER 2.50 TO THE SACRAMENTO  
CITY CODE TO CREATE THE ELECTRICAL CODE ADVISORY AND  
APPEALS BOARD**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Chapter 2.50 is added to the Sacramento City Code, to read as follows:

**Chapter 2.50**

**ELECTRICAL CODE ADVISORY AND APPEALS BOARD**

**2.50.010 Board established.**

The City of Sacramento Electrical Code Advisory and Appeals Board is hereby established.

**2.50.020 Definitions.**

As used in this chapter, the following words and phrases shall have the meaning given them in this section, unless the context clearly requires otherwise:

“City” means the City of Sacramento.

“City Council” means the City Council of the City of Sacramento.

“Board” means the Electrical Code Advisory and Appeals Board.

“Mayor” means the Mayor of the City of Sacramento.

**2.50.030 Powers and Duties of Board.**

The Board is established for the purpose of determining the suitability of alternate materials and methods of construction and providing reasonable interpretations of the 2003 California Electrical Code, as it is currently written or as it may be amended in the future.

The Board's powers and duties shall extend to any code or codes duly adopted by the California Building Standards Commission that supercede the 2003 California Electrical Code.

The Board may approve the use of any material, alternate design or method of construction not specifically prescribed by the applicable code enumerated in this section, provided the Board finds that the proposed design is satisfactory and complies with the provisions of the applicable code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the applicable code in suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation. The Board shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

The Board shall have no authority relative to interpretation of the administrative provisions of these codes nor shall the Board be empowered to waive requirements of these codes. Any cost for tests or research required by the Board to substantiate the claim of any appellant shall be the sole responsibility of the appellant.

#### **2.50.040 Board Membership.**

The Board shall consist of three members and three alternates to those members appointed by the Mayor with the approval of the City Council, subject to the following requirements:

- A. One member and one alternate to that member, each of whom is a California registered electrical engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- B. One member and one alternate to that member, each of whom is a California licensed electrical contractor who has been licensed and has practiced in California for at least three years immediately preceding appointment;
- C. One member and one alternate to that member, each of whom is an employee of an electrical testing laboratory who has been so employed for at least three years immediately preceding appointment.

#### **2.50.050 Term of Office.**

Members of the Board shall serve a term of three years. In order to establish staggered terms, the initial appointments of members shall include one member and one alternate to that member for a one-year term, one member and one alternate to that member for a two-year term, and one member and one alternate to that member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member or alternate shall serve more than two consecutive terms, whether as a member or alternate. In the event a vacancy occurs during the term of any member or alternate, the Mayor shall appoint, with the approval of the City Council, a successor to serve the unexpired term, subject to the requirements set forth in Section 2.50.040. A member or alternate shall hold office until his or her successor has been appointed. A successor appointed to complete an unexpired term shall be eligible to serve up to two consecutive terms in addition to the unexpired term.

**2.50.060 Conflict of Interest and Financial Disclosure Statements.**

The provisions of Article III of Chapter 2.16 of this Code governing conflicts of interest of board and commission members shall apply to members of the Board. In addition, all appointees to the Board shall be required to file statements disclosing financial interests pursuant to a conflict of interest code adopted for the Board.

**2.50.070 Chairperson and Organization of the Board.**

At its first meeting, and annually thereafter, the Board shall elect a Board chairperson and a vice chairperson, who each shall hold office at the pleasure of the Board. During any absence of the chairperson from a meeting of the Board, the vice-chairperson shall be the acting chairperson until the chairperson returns. When there is a vacancy in the office of chairperson or vice chairperson, the Board shall fill that office from among its members. Staff support to the Board shall be provided by one or more city employees designated by the City Manager.

**2.50.080 Board Meetings.**

The Board shall meet as often as necessary for the transaction of its business. The meetings shall be noticed and held in accordance with the provisions of the Ralph M. Brown Act (Government Code section 55050 et seq). The Board shall have the authority to notice and hold special meetings in the manner specified by the Ralph M. Brown Act.

**2.50.090 Rules and Regulations.**

The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official.

**2.50.100 Quorum; Voting.**

The quorum required for the Board to conduct business shall be two members. The affirmative vote of a majority of the members present and eligible to vote shall be necessary to approve any item.

**2.50.110 Review by Building Official.**

A. The Building Official shall establish policies and procedures that provide for Building Official review of staff-level decisions regarding the use of any material, alternate design or method of construction not specifically prescribed in the California Electrical Code. These policies and procedures shall require the Building Official to provide a written decision within fourteen calendar days of the filing of a completed request for Building Official review. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested. Requests for Building Official review shall be submitted on a form prescribed by the Building Official. Any person aggrieved by the Building Official's decision may appeal therefrom to the Board as provided in Section 2.50.120(A).

B. At any time within fourteen calendar days of the filing of a completed request for Building Official review, the Building Official may refer the request to the Board for determination. In such a case, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.50.130.

C. In the event the Building Official does not issue a written decision or refer a request to the Board within fourteen calendar days of the filing of a completed request for Building Official review, the staff-level decision shall become a final decision from which any aggrieved person may appeal to the Board as provided in Section 2.50.120(A). The staff-level decision shall be deemed final on the fifteenth calendar day following the filing of the completed request for review; provided, however, if the fifteenth calendar day falls on a Saturday, Sunday, or legal holiday, the decision shall be deemed made on the next following business day.

**2.50.120 Appeal to Board**

A. Any person aggrieved by the decision of the Building Official issued pursuant to Section 2.50.110(A) or a staff-level decision that becomes a final decision pursuant to Section 2.50.110(C) may appeal therefrom to the Board at any time within fourteen calendar days after receiving notice of the Building Official's decision or after the staff-level decision becomes final pursuant to Section 2.50.110(C). Such an appeal is taken by filing notice of appeal with the Building Official on a form provided by, and available from, the Building Official and payment of a fee as established by resolution of the City Council. All supporting documents must be submitted with the form at the time the appeal is filed.

B. Notwithstanding Subsection (A), no person shall be allowed to appeal a staff-level decision regarding the use of any material, alternate design or method of construction not specifically prescribed in the California Electrical Code to the Board unless (1) the person submitted a completed request for Building Official review as required by Section 2.50.110(A) and (2) the Building Official failed to either provide a written decision or refer the request to the Board within fourteen calendar days of the filing of the completed request for review.

C. Failure to properly file a written appeal as required under Subsection (A) will constitute a waiver of all right to an appeal hearing before the Board, and the decision of the Building Official or the staff-level decision will be final. Failure to properly and timely appeal pursuant to Subsection (A) also shall constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the staff-level decision or decision of the Building Official.

### **2.50.130 Hearings.**

The Building Official shall schedule a hearing to be held within twenty-one calendar days after the filing of a request for a hearing pursuant to Section 2.50.120(A). In the event the Building Official refers a request to the Board pursuant to Section 2.50.110(B), the Building Official shall schedule a hearing to be held within twenty-one calendar days of the referral. The Building Official shall not later than ten calendar days prior to the hearing give notice of the time, place, and subject matter of the hearing to the person filing the appeal and each member of the Board. The hearing shall be conducted according to the rules and regulations adopted by the Board. The Board shall render all decisions and findings in writing. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested.

### **2.50.140 Appeals to City Council.**

A. Any person aggrieved by the decision rendered by the Board in an appeal hearing held pursuant to Section 2.50.130, may appeal the decision to the City Council in accordance with Chapter 1.24. The appeal shall be made by filing a written notice thereof with the City Clerk not later than fourteen calendar days after appellant receives notice of the decision of the Board. The City Council shall hold a hearing on the appeal and its decision thereon shall be final. Instead of hearing the appeal, the City Council may refer the matter to a hearing examiner pursuant to Chapter 1.24, in which case the hearing examiner's decision shall be final.

B. Failure to properly file a written appeal of the decision of the Board within fourteen calendar days of the decision will constitute a waiver of all right to an appeal hearing before the City Council, and the Board's decision will be final. Failure to properly and timely appeal the Board's decision also shall constitute a failure to exhaust

administrative remedies and a bar to any judicial action pertaining to the Board's decision.

**2.50.150 Compensation.**

Pursuant to City Charter Section 29, the Compensation Commission shall establish the compensation members of the Board receive for attending Board meetings.

**2.50.160 General Requirements.**

Unless specifically provided otherwise in this chapter, the general requirements set forth in Chapter 2.40 of this code, governing the appointment of board and commission members, attendance at board and commission meetings, voting, term limits and removal, shall apply to the Board. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

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MAYOR

ATTEST:

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CITY CLERK



# Sacramento Builders' Exchange, Inc.

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FAX: (916) 782-4792

August 22, 2005

City of Sacramento  
Law and Legislation Committee  
City Hall  
915 I Street  
Sacramento, CA 95814-2671

Dear Law and Legislation Committee:

The Sacramento Builders' Exchange is one of the oldest and largest Builders' Exchanges in the United States, serving the construction industry since 1901.

We support and advocate for a wide range of construction issues and concerns. Our membership roster is comprised with over 1300 members. Some of the most progressive construction professionals and related aggregates belong to our foundation.

We, as a professional community are in support of the efforts of Mr. Ron Beehler, Chief Building Official of the City of Sacramento. Mr. Beehler has exigently addressed the Sacramento Builders' Exchange Board of Directors with a clear and concise plan for the appeals process in Sacramento. It is our position that the proposed revisions will ultimately produce more efficiency and reduce costs.

Ron has accurately described some of the concerns of the current appeals process. Implementation of a new, cost effective and streamlined methodology will only serve as a catalyst for improved service to the business community and the people of Sacramento.

If you should have any concerns, questions, or ideas please contact Alfredo Garcia at (916) 442-8991.

Respectfully Yours,

Dennis Guerra  
President Board of Directors

Steve Humason  
Legislative Committee Chair





September 21, 2005

Law and Legislation Committee  
City of Sacramento  
915 I Street  
Sacramento, CA 95814-2671

Re: Building Codes Administrative Appeals Boards/  
Specialty Code Appeals Board

Honorable Committee Members:

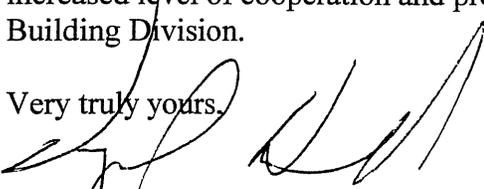
On behalf of the members and Board of Directors of the American Institute of Architects Central Valley, we are writing to express our strong support of the proposed modifications to the building codes appeals process as recommended by the Building Division.

We strongly agree with staff's assessment that the establishment of a comprehensive code appeals process will not only streamline the permitting process, it represents a reasoned, timely, and fair method for reviewing determinations relating to alternate designs, materials or construction methods as well as the interpretation and application of building regulations.

We applaud the innovative approach suggested by the Building Division where the specialty code Board of Appeals is comprised of members qualified in the particular specialty at issue. The use of individuals with significant experience in the specialty trade affords the process considerable credibility. To the extent that we can assist the City in locating architects to serve in this capacity, we are happy to offer our services.

We further wish to acknowledge the effort evidenced by these and other similar initiatives currently underway to improve the development process and appreciate the increased level of cooperation and professionalism our members encounter at the Building Division.

Very truly yours,

  
Virgil Hancock, AIA  
President



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# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
**March 7, 2006**

Honorable Members of the  
Law and Legislation Committee

**Subject:** Legislative Position: Support AB 861 relating to barbering and cosmetology licensure.

**Location/Council District:** Citywide

**Recommendation:**

Staff recommends that the Law and Legislation Committee adopt a support position on AB 861 relating to barbering and cosmetology licensure.

**Contact:** Yvette Rincon, Legislative Analyst, 808-5827

**Presenters:** Yvette Rincon, Legislative Analyst

**Department:** City Manager's Office

**Division:** Government Affairs

**Organization No:** 0310

**Summary:**

This report provides information on AB 861, authored by Assembly Member Karen Bass, which would require the State Board of Barbering and Cosmetology to give additional information to a person who has been denied a license, conduct a hearing within 90 days of receiving an applicant's request for a hearing, and authorize the board to issue a probationary license to an applicant, subject to specified terms and conditions. The bill would also require the board to study the effects of law, regulations, and policy that may create unnecessary barriers to employing people with criminal records, and would require a report of its findings to the Legislature on or before September 1, 2007.

**Committee/Commission Action:** None.

**Background Information:**

Under existing law, the State Board of Barbering and Cosmetology (Board) licenses and regulates the practice of barbering and cosmetology. Existing law authorizes the board to deny, suspend, or revoke a license for specified reasons. Existing law also requires the board in certain circumstances to provide a notice to a person that states the board's reason for denying the license, and to comply with other requirements upon denying a license to an applicant.

**Major Provisions of AB 861 (Bass)**

AB 861 (Bass) requires the Board to give an applicant who has been denied a license a statement of reasons for the denial that does the following:

- Evaluates evidence of rehabilitation submitted by the applicant, if any.
- Provides the Board's criteria relating to rehabilitation, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

AB 861 (Bass) also requires the Board to conduct a hearing within 90 days of receiving an applicant's request for a hearing. It also authorizes the Board to issue a probationary license subject to terms and conditions deemed appropriate by the Board.

Finally, AB 861 (Bass) requires the Board to study the effects of current law, regulations, and policy related to the licensing functions of the Board that may create unnecessary barriers to employing people with criminal records. The study will provide information from calendar years 2002-2006 on a number of statistics including but not limited to: the total number of applicants by occupation, the number denied licensure, the number denied licensure who requested a hearing, the number of applicants whose appeal resulted in reversal or modification of the decision, the number of applicants with nonviolent drug offenses, the number of applicants with misdemeanor offenses, the number of applicants who provide evidence of rehabilitation.

**Financial Considerations:**

This bill would not result in any costs to the City. However, it would result in special fund costs to the State of about \$175,000 to complete the study and under \$100,000 in ongoing operating costs.

**Environmental Considerations:** None.

**Policy Considerations:**

AB 861 (Bass) provides applicants with criminal backgrounds an additional tool to successfully seek licensure in barbering and cosmetology, and thus be successful in the community.

**Emerging Small Business Development (ESBD):**

Respectfully Submitted by:   
Patti Bisharat, Government Affairs

Recommendation Approved:

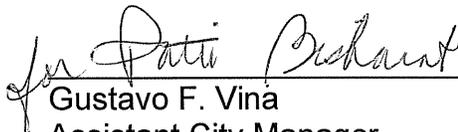
  
Gustavo F. Vina  
Assistant City Manager

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March 7, 2006

Honorable Karen Bass  
California State Assembly  
State Capitol  
Sacramento, CA 95814

Support: Assembly Bill 861 Relating to Barbering and Cosmetology.

Dear Assembly Member Baas:

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 861 relating to barbering and cosmetology. We believe AB 861 is a step toward understanding the barriers applicants with criminal backgrounds might face when trying to become successful in the field of barbering and cosmetology, and thus the community.

Thank you for introducing this important piece of legislation.

Sincerely,

Lauren Hammond, Chair  
Law and Legislation Committee

CC: Mayor Fargo and Members of the City Council

AMENDED IN ASSEMBLY JANUARY 12, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 861**

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**Introduced by Assembly Member Bass**

February 18, 2005

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An act to amend Section 7403 of, and to add Sections 7308 and 7396.5 to, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 861, as amended, Bass. Barbering and Cosmetology *cosmetology*: licensure.

Under existing law, the State Board of Barbering and Cosmetology licenses and regulates the practice of barbering and cosmetology. Existing law authorizes the board to deny, suspend, or revoke a license for specified reasons. Existing law also requires the board in certain circumstances to provide a notice to a person that states the board's reason for denying the license, and to comply with other requirements upon denying a license to an applicant.

This bill would require the board to give specified additional information to a person who has been denied a license, and would require the board to conduct a hearing within ~~60~~ 90 days of receiving an applicant's request for a hearing. The bill would authorize the board to issue a probationary license to an applicant, subject to specified terms and conditions. The bill would also require the board to study the effects of law, regulations, and policy that may create

unnecessary barriers to employing people with criminal records, and would require the board to report its findings to the Legislature on or before September 1, 2007.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7308 is added to the Business and  
2 Professions Code, to read:

3 7308. (a) The board shall study the effects of current law,  
4 regulations, and policy related to the licensing functions of the  
5 board that may create unnecessary barriers to employing people  
6 with criminal records. The objective of the study shall be to  
7 identify changes in law or board policy to help remove  
8 unnecessary barriers to licensing due to criminal records while  
9 protecting the safety and security of customers and the integrity  
10 of the occupations regulated by the board. The board shall report  
11 all of its findings to the Legislature on or before September 1,  
12 2007.

13 (b) The board shall address all of the following in the study:

14 (1) For each of the past five years, the number of applicants,  
15 by occupation, who produced evidence of a criminal record as  
16 part of the licensing application process:

17 (2) For each of the past five years, an analysis of the age and  
18 severity of the offenses produced by the applicants, including the  
19 number of applicants whose criminal records were limited to  
20 nonviolent drug offenses and misdemeanors.

21 (3) For each of the past five years, the number of applicants  
22 whom the board asked to supply additional information related to  
23 their criminal record compared to the number of applicants who  
24 supplied the requested information:

25 (4) For each of the past five years, the number of applicants  
26 who supplied evidence of rehabilitation supplementing their  
27 applications, compared to the number of those applicants who  
28 were denied a license:

29 (5) The number of applicants who received a notice of denial  
30 for reasons related to their criminal record, compared with the  
31 number who appealed the determination, and the number whose

1 appeals resulted in reversal or other modification of the decision,  
2 including a probationary license.

3 (6) For each of the past five years, the criteria applied by the  
4 board to determine whether an applicant's criminal record  
5 substantially related to the requested license, including the  
6 specific categories of disqualifying offenses and any criteria  
7 related to the age and severity of disqualifying offenses.

8 (7) The criteria applied by the board to determine whether an  
9 applicant has been sufficiently rehabilitated, including an  
10 analysis of the factors that most often lead to a determination of  
11 rehabilitation resulting in licensing.

12 (8) For each of the past five years, the average length of time  
13 that an appeal is pending relative to the date of the hearing  
14 request and final decision.

15 (9) For each of the past five years, the number and proportion  
16 of appeals pending longer than 30 days and longer than 100 days  
17 since the time of the hearing request.

18 (b) For each of the calendar years 2002, 2003, 2004, 2005,  
19 and 2006, the study shall provide the following information:

20 (1) The total number of applicants, by occupation.

21 (2) The number of applicants who were denied licensure.

22 (3) The number of applicants, by occupation, who disclosed a  
23 criminal record on their application. Of those applicants:

24 (A) The number of applicants who were denied licensure.

25 (B) The number of applicants who were denied licensure who  
26 requested a hearing to appeal the decision.

27 (C) The number of applicants whose appeal resulted in  
28 reversal or modification of the decision, including the issuance of  
29 a probationary license.

30 (D) The age and severity of each offense.

31 (E) The number of applicants with nonviolent drug offenses.

32 (F) The number of applicants with misdemeanor offenses.

33 (G) The number of applicants that were asked by the board to  
34 supply additional information relating to their criminal record.

35 (H) The number of applicants who provided evidence of  
36 rehabilitation.

37 (4) The criteria applied by the board to determine whether an  
38 applicant's criminal record is substantially related to the  
39 requested license, including the specific categories of

1 *disqualifying offenses and any criteria related to the age and*  
2 *severity of the disqualifying offenses.*

3 (5) *The criteria applied by the board to determine whether an*  
4 *applicant has been sufficiently rehabilitated, including an*  
5 *analysis of the factors that most often lead to a determination of*  
6 *rehabilitation resulting in licensing.*

7 (6) *The average length of time that an appeal is pending*  
8 *relative to the date of the hearing request and final decision.*

9 (7) *The number and percentage of appeals pending longer*  
10 *than 30 days and longer than 100 days from the time the*  
11 *applicant requested the hearing.*

12 SEC. 2. Section 7396.5 is added to the Business and  
13 Professions Code, to read:

14 7396.5. (a) The board may, in its sole discretion, issue a  
15 probationary license to an applicant subject to terms and  
16 conditions deemed appropriate by the board, including, but not  
17 limited to, the following:

18 (1) Continuing medical, psychiatric, or psychological  
19 treatment.

20 (2) Ongoing participation in a specified rehabilitation  
21 program.

22 (3) Abstention from the use of alcohol or drugs.

23 (4) Compliance with all provisions of this chapter.

24 (b) The board may modify or terminate the terms and  
25 conditions imposed on the probationary license upon receipt of a  
26 petition from the applicant or licensee.

27 SEC. 3. Section 7403 of the Business and Professions Code is  
28 amended to read:

29 7403. (a) The board may revoke, suspend, or deny at any  
30 time any license required by this chapter on any of the grounds  
31 for disciplinary action provided in this article. The proceedings  
32 under this article shall be conducted in accordance with Chapter  
33 5 (commencing with Section 11500) of Part 1 of Division 3 of  
34 Title 2 of the Government Code, and the board shall have all the  
35 powers granted therein.

36 (b) The board may deny a license to an applicant on any of the  
37 grounds specified in Section 480.

38 (c) In addition to the requirements provided in Sections 485  
39 and 486, upon denying a license to an applicant, the board shall

1 provide a statement of reasons for the denial that does the  
2 following:

3 (1) Evaluates evidence of rehabilitation submitted by the  
4 applicant, if any.

5 (2) Provides the board's criteria relating to rehabilitation,  
6 formulated pursuant to Section 482, that takes into account the  
7 age and severity of the offense, and the evidence relating to  
8 participation in treatment or other rehabilitation programs.

9 (d) ~~Notwithstanding Section 487, the~~ *The* board shall conduct  
10 a hearing within ~~60~~ 90 days of receiving an applicant's request  
11 for a hearing.

12 (e) In any case in which the administrative law judge  
13 recommends that the board revoke, suspend or deny a license, the  
14 administrative law judge may, upon presentation of suitable  
15 proof, order the licensee to pay the board the reasonable costs of  
16 the investigation and adjudication of the case. For purposes of  
17 this section, "costs" include charges by the board for  
18 investigating the case, charges incurred by the office of the  
19 Attorney General for investigating and presenting the case, and  
20 charges incurred by the Office of Administrative Hearings for  
21 hearing the case and issuing a proposed decision.

22 (f) The costs to be assessed shall be fixed by the  
23 administrative law judge and shall not, in any event, be increased  
24 by the board. When the board does not adopt a proposed decision  
25 and remands the case to an administrative law judge, the  
26 administrative law judge shall not increase the amount of any  
27 costs assessed in the proposed decision.

28 (g) The board may enforce the order for payment in the  
29 superior court in the county where the administrative hearing was  
30 held. This right of enforcement shall be in addition to any other  
31 rights the board may have as to any licensee directed to pay  
32 costs.

33 (h) In any judicial action for the recovery of costs, proof of the  
34 board's decision shall be conclusive proof of the validity of the  
35 order of payment and the terms for payment.

36 (i) Notwithstanding any other provision of law, all costs  
37 recovered under this section shall be deposited in the board's

- 1 contingent fund as a scheduled reimbursement in the fiscal year
- 2 in which the costs are actually recovered.

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ASSEMBLY THIRD READING  
 AB 861 (Bass)  
 As Amended January 12, 2006  
 Majority vote

BUSINESS & PROFESSIONS                      10-0 APPROPRIATIONS                      18-0

Ayes:	Negrete McLeod, Shirley	Ayes:	Chu, Sharon Runner, Bass,	
	Horton, Bass, Frommer,		Berg, Calderon, De La	
	Koretz, Maze, Nation,		Torre, Emmerson, Haynes,	
	Tran, Vargas, Yee		Karnette, Klehs, Leno,	
			Nakanishi, Nation,	
			Oropeza, Jones, Saldana,	
			Walters, Yee	

SUMMARY : Authorizes the Board of Barbering and Cosmetology (Board) to issue probationary licenses to applicants, subject to specified terms and conditions, and requires the Board to submit a report to the Legislature on or before September 1, 2007 on various aspects and trends of licensing by the Board over a five-year period. Specifically, this bill :

- 1) Requires the Board to conduct a study on the effects of current law, regulations and policy related to the licensing functions of the Board that may create unnecessary barriers to employing people with criminal records and submit the findings to the Legislature on or before September 1, 2007.
- 2) Stipulates that the report of the Board's findings submitted to the Legislature must include, for each of the past five years, the following:
  - a) The number of applicants, by occupation, who produced evidence of a criminal record as part of the licensing application process;
  - b) An analysis of the age and severity of the offenses produced by the applicants, including the number of applicants whose criminal records were limited to nonviolent drug offenses and misdemeanors;
  - c) The number of applicants whom the Board asked to supply

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additional information related to their criminal record compared to the number of applicants who supplied the requested information;

- d) The number of applicants denied a license;
  - e) The number of applicants who supplied evidence of rehabilitation supplementing their applications;
  - f) The number of applicants who received a notice of denial for reasons related to their criminal record, the number who appealed the determination, and the number whose appeals resulted in reversal or other modification of the decision, including a probationary license;
  - g) The criteria applied by the Board to determine whether an applicant's criminal record is substantially related to the requested license, including the specific categories of disqualifying offenses and any criteria related to the age and severity of disqualifying offenses;
  - h) The criteria applied by the Board to determine whether an applicant has been sufficiently rehabilitated, including an analysis of the factors that most often lead to a determination of rehabilitation resulting in licensing;
  - i) The average length of time that an appeal is pending relative to the date of the hearing request and final decision; and,
  - j) The number and proportion of appeals pending longer than 30 days and longer than 100 days since the time of the hearing request.
- 3) Requires the Board, upon denying a licensure application, to provide a statement of reason to the applicant that does the following:
- a) Evaluates evidence of rehabilitation submitted by the applicant, if any; and,
  - b) Provides the Board's criteria relating to rehabilitation that takes into consideration the age and severity of the offense, and the evidence relating to participation in

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treatment or other rehabilitation programs.

- 4) Requires the Board to conduct a hearing within 60 days of receiving an applicant's request for a hearing.

EXISTING LAW :

- 1) Establishes the Board under the Department of Consumer Affairs (DCA) which has the full authority provided by the Barbering and Cosmetology Act to regulate the practice of barbering and the practice of cosmetology, as defined.
- 2) Provides that the Board may deny a license on the grounds that the applicant has one of the following:
- a) Been convicted of a crime, as defined, but only if that crime is substantially related to the qualifications, functions or duties of the business or profession for which application is made;
  - b) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself, herself, or another or substantially injure another only if that act is substantially related to the qualifications, functions or duties of the business or profession for which application is made; or,
  - c) Done any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of a license.
- 3) Provides that no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation, as defined, or met other criteria established by the licensing board to evaluate the rehabilitation of a person.
- 4) Provides that a denied applicant for licensure has a right to a hearing to dispute the denial of his or her license application within 90 days from the date the hearing is requested.
- 5) Requires the Board to provide, within the notice of denial to the applicant, information regarding the earliest date on

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which the applicant can reapply for a license, notice that all competent evidence of rehabilitation presented will be considered upon reapplication, and a copy of the criteria relating to rehabilitation.

FISCAL EFFECT : According to the Assembly Appropriations Committee analysis, special fund costs of about \$175,000 in 2006-07 and in 2007-08 to complete the required study and develop conditions and procedures for issuing probationary licenses, process probationary licenses, and conduct hearings for denied licenses. Ongoing costs would be under \$100,000.

COMMENTS : According to the author's office, "When we create barriers for an individual to work and provide for their family, we do a disservice to that individual and provide opportunities for them to re-offend -- thus contributing to the vicious cycle of recidivism. AB 861 is a modest attempt to address the needs for those persons who have paid their debt to society, have complied with treatment and parole requirements, and have a desire to become an asset to a society from which they were once a liability."

The Assembly Business and Professions Committee held two interim hearings to examine issues related to this bill. This bill is, in part, a product of the information gathered from these two Interim hearings and many collaborative meetings among the author and her staff, the Committee Chair and her staff, and various experts in the field of ex-offender employment.

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Analysis Prepared by : Tracy Rhine / B. & P. / (916) 319-3301

FN: 0013661



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# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
**March 7, 2006**

Honorable Members of the  
Law and Legislation Committee

**Subject:** Legislative Position: Support AB 1558 relating to the Fair Political Practices Commission

**Location/Council District:** Citywide

**Recommendation:**

Staff recommends that the Law and Legislation Committee adopt a support position on AB 1558 (Wolk) relating to the Fair Political Practices Commission.

**Contact:** Yvette Rincon, Legislative Analyst, 808-5827

**Presenters:** Yvette Rincon, Legislative Analyst

**Department:** City Manager's Office

**Division:** Government Affairs

**Organization No:** 0310

**Summary:**

This report recommends support of AB 1558, authored by Assembly Member Lois Wolk, which would create a three year pilot project that would authorize the Fair Political Practices Commission to provide written opinions on potential conflict of interest questions upon request. Various provisions of state law prohibit public officials and employees from being financially interested in a contract made by them in their official capacity, or made by any body or board of which they are members.

Currently Section 1090 questions can be difficult to resolve, and there is no source of official State expertise upon which local officials may rely. AB 1558 would provide local officials with the opportunity to seek an official opinion on Section 1090 issues and would provide evidence of good faith conduct for officials who rely on such an opinion.

**Committee/Commission Action:** None.

**Background Information:**

California State Law, under Government Code Section 1090, generally prohibits a public official or employee from making a contract, in his or her official capacity, in which she or he has a financial interest. Section 1090 also prohibits a public body or board from making a contract in which any member has a financial interest. Willful violations of Section 1090 are subject to felony prosecution, and an official convicted of a 1090 violation is forever disqualified from holding any office in California. In addition, contracts made in violation of Section 1090 are null and void, and the public funds expended on such contracts must be repaid.

Given the complexity of Section 1090, the lack of implementing regulations and the various exceptions to and limitations on Section 1090, determining whether a member of a public board or body has an impermissible financial interest in a contract can be difficult, and there is no source of official State expertise upon which local officials may rely. The Fair Political Practices Commission (FPPC) has no enforcement authority over Section 1090, and the Attorney General and county district attorneys, that do have enforcement authority, typically do not give legal opinions on the application of section 1090. Public officials can, and frequently do, obtain advice from the legal counsel to their board or body, but such opinions do not provide any legal protection to the local official.

**Major Provision of AB 1558 (Wolk)**

AB 1558 (Wolk) would create a three-year pilot project under which the FPPC would be authorized to provide opinions to public officials on conflict-of-interest questions related to Section 1090. The bill provides that upon receipt of an opinion request, the FPPC would forward a copy of the request to the Attorney General, the local district attorney and the local or agency legal counsel for consultation prior to proceeding with a draft opinion. Under the bill, an opinion issued by the FPPC would be evidence of good faith conduct in any civil proceeding against the official for a Section 1090 violation, and would provide an official who acted in reliance upon such opinion with some limited protection in such a proceeding. The bill includes funding for 1.5 positions at the FPPC during the pilot project period.

Although the bill provides the Attorney General and local district attorney an opportunity to consult with the FPPC when the opinion is drafted, the bill does not indicate that an FPPC opinion would provide any protection in a criminal proceeding, nor does the bill provide the FPPC any enforcement authority under section 1090. The bill also states that local jurisdictions do not have to participate in the pilot project.

The City Attorney's Office has reviewed this legislation and agrees with staff recommendations to support this bill.

**Financial Considerations:**

This bill would not result in any additional costs to the City.

**Environmental Considerations:**

None.

**Policy Considerations:**

Currently Section 1090 questions can be difficult to resolve, and there is no source of official State expertise upon which local officials may rely. AB 1558 would provide local officials with the opportunity to seek an official opinion on Section 1090 issues and would provide evidence of good faith conduct for officials who rely on such an opinion. This League of California Cities supports this bill.

**Emerging Small Business Development (ESBD):**

Respectfully Submitted by:   
Patti Bisharat, Government Affairs

Recommendation Approved:

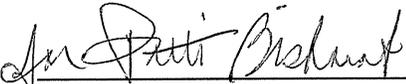
  
GUSTAVO F. VINA  
Assistant City Manager

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March 7, 2006

Honorable Lois Wolk  
California State Assembly  
State Capitol  
Sacramento, CA 95814

Support: Assembly Bill 1558 Relating to Issuance of Opinions by the Fair Political Practice Commission.

Dear Assembly Member Wolk:

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 1558, that would establish a pilot project authorizing the Fair Political Practice Commission to issue opinions on Government Code Section 1090 conflict of interest questions. These questions can be difficult to resolve and currently there is no source of official State expertise upon which local officials and local legal counsel may rely. We believe AB 1558 would help address this difficulty by providing an avenue to obtain an official opinion that would provide evidence of good faith conduct for local officials who rely on the opinion.

Thank you for introducing this important piece of legislation.

Sincerely,

Lauren Hammond, Chair  
Law and Legislation Committee

CC: Mayor Fargo and Members of the City Council

AMENDED IN ASSEMBLY JANUARY 19, 2006

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1558**

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**Introduced by Assembly Member Wolk**

February 22, 2005

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An act to add Chapter 3.5 (commencing with Section 83500) to Title 9 of the Government Code, relating to the Fair Political Practices Commission, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1558, as amended, Wolk. Fair Political Practices Commission: pilot project: financial interests in public contracts.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign finance and specifies requirements relating to certain issues of governmental ethics. The Fair Political Practices Commission is given primary responsibility for the administration and implementation of the act. Among its duties, the commission issues opinions upon request relating to issues under the act, and a person acting in good faith on one of these opinions is not subject to civil or criminal penalties for so acting, provided that the material facts are as stated in the opinion request. Existing law provides for a separate set of statutes forbidding specified public officials and employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

This bill, *commencing July 1, 2007*, would give the Fair Political Practices Commission similar authority to issue opinions with regard to the provisions that concern financial interests of public officials and

employees in contracts to the authority they have to issue opinions concerning the Political Reform Act of 1974. It would provide procedures for the issuance of these opinions, and would make reliance on advice in one of these opinions evidence of good faith in any civil proceeding, as specified. It would specify that the commission shall have no enforcement authority under its provisions; *and that no local jurisdiction shall be required to participate in the opinion procedures, and that the funding for its provisions shall be provided in the Budget Act of 2006. The bill would appropriate \$150,000 to the Fair Political Practices Commission for the 2007–08, 2008–09, and 2009–10 fiscal years for expenditure for purposes of the bill.*

This bill would make these provisions inoperative on July 1, ~~2009~~ 2010, and would repeal them as of January 1, ~~2010~~ 2011.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: ~~no~~yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Chapter 3.5 (commencing with Section 83500)
- 2 is added to Title 9 of the Government Code, to read:
- 3
- 4 CHAPTER 3.5. SECTION 1090 PILOT PROJECT
- 5
- 6 83500. This chapter may be cited and shall be known as the
- 7 Government Code Section 1090 Pilot Project to Enhance
- 8 Compliance with the Ban on Public Officials Having a Financial
- 9 Interest in Public Contracts.
- 10 83501. The Fair Political Practices Commission shall be the
- 11 state agency responsible for implementing the Government Code
- 12 Section 1090 Pilot Project to Enhance Compliance with the Ban
- 13 on Public Officials Having a Financial Interest in Public
- 14 Contracts.

1 83502. During the pilot period, in addition to the authority  
2 granted to the commission under Section 83114, the commission  
3 shall have the authority to provide written opinions on the  
4 application of Sections 1090, 1091, 1091.1, 1091.2, 1091.3,  
5 1091.4, and 1091.5 to public officials as follows:

6 (a) Any person may request the commission to issue an  
7 opinion with respect to his or her duties under Sections 1090,  
8 1091, 1091.1, 1091.2, 1091.3, 1091.4, and 1091.5.

9 (b) The commission shall, within 14 days, either issue the  
10 opinion or advise the person who made the request whether an  
11 opinion will be issued.

12 (c) The commission shall forward a copy of the opinion  
13 request to the Attorney General's office, the local district  
14 attorney, and local or agency legal counsel for consultation prior  
15 to proceeding with a draft opinion.

16 (d) When issuing the opinion, the commission shall either  
17 provide to the person who made the request a copy of any written  
18 communications submitted by the Attorney General or a local  
19 district attorney regarding the opinion or advise the person that  
20 none of these written communications was submitted.

21 (e) The opinion, when issued, shall be evidence of good faith  
22 conduct in any civil proceeding regarding these provisions, if the  
23 requester disclosed truthfully all the material facts, and  
24 committed the acts complained of in reliance on the opinion. The  
25 commission's opinions shall be public records and may from  
26 time to time be published.

27 (f) The commission shall have no enforcement authority under  
28 the pilot project.

29 ~~83503. (a) Funding for the pilot project shall be provided in  
30 the Budget Act of 2006. The commission shall be given  
31 sufficient additional funding to deal with the increased workload,  
32 including the educational component.~~

33 ~~(b)–~~

34 (g) No local jurisdiction shall be required to participate in the  
35 pilot project.

36 *83503. The sum of one hundred fifty thousand dollars*  
37 *(\$150,000) is hereby appropriated to the Fair Political Practices*  
38 *Commission for the 2007–08, 2008–09, and 2009–10 fiscal years*  
39 *for expenditure to fund the pilot project established under this*  
40 *chapter.*

1 83504. *This chapter shall become operative on July 1, 2007.*

2 83505. This chapter shall become inoperative on July 1, ~~2009~~  
3 2010, and, as of January 1, ~~2010~~ 2011, is repealed, unless a later  
4 enacted statute, that becomes operative on or before January 1,  
5 ~~2010~~ 2011, deletes or extends the dates on which it becomes  
6 inoperative and is repealed.

7 SEC. 2. The Legislature finds and declares that the provisions  
8 of this act further the purposes of the Political Reform Act of  
9 1974 within the meaning of subdivision (a) of Section 81012 of  
10 the Government Code.

ASSEMBLY THIRD READING  
 AB 1558 (Wolk)  
 As Amended January 19, 2006  
 2/3 vote

ELECTIONS 4-2 APPROPRIATIONS 13-5

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Ayes: Umberg, Klehs, Leno,    Levine	Ayes: Chu, Bass, Berg,    Calderon, Mullin,    Karnette, Klehs, Leno,    Nation, Oropeza,    Ridley-Thomas, Saldana,    Yee
-----	
Nays: Mountjoy, Villines	Nays: Sharon Runner, Emmerson,    Haynes, Nakanishi,    Walters
-----	

SUMMARY : Authorizes the Fair Political Practices Commission (FPPC) to provide written opinions on various provisions of state law that prohibit public officials and employees from being financially interested in a contract made by them in their official capacity, or made by any body or board of which they are members. Specifically, this bill :

- 1) Establishes a pilot project that permits FPPC to provide written opinions to public officials on the application of a provision of state law that prohibits public officials and employees from being financially interested in any contract made by them in their official capacities, and on various exceptions and limitations to that provision, as follows:
  - a) Permits a person to request FPPC to issue an opinion with respect to his or her duties under those provisions of law. Requires FPPC to forward a copy of the opinion request to the Attorney General's (AG) office, the local district attorney, and local or agency legal counsel for consultation prior to proceeding with a draft opinion;
  - b) Requires FPPC, within 14 days, to either issue an opinion or advise the person who made the request whether it will issue an opinion;

□

- c) Requires FPPC, when issuing the opinion, to either provide to the person who requested the opinion with a copy of any written communications submitted by the AG or a local district attorney regarding the opinion or to advise the person that none of these written communications was submitted;
- d) Provides that the opinion issued by FPPC shall be evidence of good faith conduct in any civil proceeding if the requester disclosed truthfully all material facts and committed the acts complained of in reliance on the opinion; and,
- e) Provides that FPPC shall have no enforcement authority under the pilot project.
- 2) Appropriates \$150,000 from the General Fund (GF) to FPPC for the 2007-08, 2008-09, and 2009-10 fiscal years for expenditures to fund the pilot project established by this bill.
- 3) Provides that the pilot project established by this bill shall begin on July 1, 2007 and shall end on July 1, 2010.

FISCAL EFFECT : Annual GF costs during the pilot project of \$150,000 for 1.5 positions at FPPC.

COMMENTS : According to the author, "[t]his bill creates a three-year pilot project under which the [FPPC] will provide opinions to public officials on conflict-of-interest questions related to Government Code sections 1090 et seq. Local officials . . . express great dismay that the threat of felony prosecution under Government Code section 1090 looms large given that there is no source of official expertise they can directly go to for advice. This bill is an attempt to provide that expertise, by using the attorneys at the [FPPC] who will work in consultation with the AG's office to provide advice, while avoiding interference with prosecutions by consulting with the district attorneys before issuing any opinions."

Government Code Section 1090 (Section 1090) generally prohibits a public official or employee from making a contract in his or her official capacity in which he or she has a financial interest. In addition, a public body or board is prohibited

□

from making a contract in which any member of the body or board

10

has a financial interest, even if that member does not participate in the making of the contract. Violation of this provision is punishable by a fine of up to \$1,000 or imprisonment in the state prison, and any violator is forever disqualified from holding any office in the state.

Given the complexity of Section 1090, and the various exceptions to and limitations on that section, it can be extremely difficult for a public board or body to determine whether a member of that board or body has an impermissible financial interest in a contract made by the board or body. The AG and county district attorneys have enforcement authority over Section 1090, but neither the AG nor the county district attorneys typically give legal opinions on the application of that section. Public officials may be able to receive an opinion from the legal counsel to the board or body of which they are a member, but such an opinion does not provide any legal protection to the public official.

FPPC has no enforcement authority over Section 1090, a fact that is reiterated in the text of this bill. Nonetheless, written opinions issued by FPPC under this bill would provide a public official with limited protection in a civil proceeding against that official for a violation of Section 1090. It is unusual for a public entity to be able to offer legal advice that provides protection from enforcement actions when that entity is not involved in enforcement. FPPC issues opinions and advice about the application of the Political Reform Act (PRA), but FPPC also has enforcement authority over the PRA. Given that FPPC does not have enforcement authority over violations of Section 1090, it is less likely to have the technical expertise specific to that area of law.

\_\_\_\_\_ Please see the policy committee analysis for a full discussion of this bill.

Analysis Prepared by : Ethan Jones / E. & R. / (916) 319-2094

FN: 0013673



7.0

# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
March 7, 2006

Honorable Members of the  
Law and Legislation Committee

**Subject:** Assembly Bill 1387 relating to CEQA and residential infill projects

**Location/Council District:** Citywide

**Recommendation:**

Staff recommends that the Law and Legislation Committee support Assembly Bill 1387 relating to facilitating infill projects of less than 100 units under certain conditions. Staff also recommends that the City suggest some amendments to the legislation to allow the City to better take advantage of the bill's provisions.

**Contact:** Lucinda Willcox, Infill Coordinator, 808-5052

**Presenters:** Lucinda Willcox, Infill Coordinator

**Department:** Development Services

**Division:** Infill

**Organization No:** 4814

**Summary:**

This report provides information on AB 1387 authored by Assembly Member Dave Jones. The bill would amend the California Environmental Quality Act (CEQA) to allow local governments to approve urban infill projects of 100 units or less within one-half mile of a transit stop without requiring traffic mitigations, under specified circumstances.

**Committee/Commission Action:**

None.

**Background Information:**

CEQA requires that local governments, acting as lead agencies, analyze proposed projects for their impacts on the environment, make findings about the significance of potential impacts on the environment, and adopt feasible mitigation measures as necessary to reduce the impacts. Such impacts

commonly include effects of proposed projects on local and regional traffic conditions.

From a regional perspective, higher density infill projects reduce the length and number of automobile trips, provide greater efficiencies and opportunities for transit use, and therefore reduce overall regional traffic congestion compared with lower density development in more suburban locations.

AB 1387 would provide that for specified residential infill projects, local governments would not be required to make findings regarding the significant environmental impacts of the project on traffic. The bill would not relieve local governments from any requirement to analyze the project's effects on traffic, and would permit local governments to require improvements to address pedestrian and bicycle safety.

Eligible projects would have to meet the following criteria:

- Must be on an "infill site" in an "urbanized area" as defined by CEQA
- Must be 100 units or less
- Site must be four acres or less
- Project must have minimum density of 20 units per acre
- Project must be within one-half mile of a transit stop
- EIR must have been prepared for the project area. It must be no more than five years old, and no major changes in the area may have occurred since its certification
- Project area EIR must not have been certified with overriding considerations with respect to the traffic, circulation, and transportation policy of the general plan or local ordinances
- Project must be in compliance with traffic policies of general plan and associated ordinances

The proposed legislation supports streamlining the development of higher density infill housing in proximity to transit stations, focusing on regional traffic benefits and transit support related to this kind of development.

Currently, the City of Sacramento's existing transportation goals and practices would make taking advantage of these provisions infeasible, as higher levels of congestion are generally considered to be significant. For most, if not all, EIRs for higher density development, traffic impacts are considered to be significant, but the City makes findings of overriding consideration related to the other benefits of such development.

The City is re-examining its transportation policies in connection with the General Plan update, so might be able to take advantage of the bill's provisions in the

future if the City adopts transportation policies that better address the regional benefits on traffic and effects on transit and other modes of transportation from higher density urban infill development.

Another challenge with the proposed legislation concerns the requirement that an EIR have been prepared for the area within five years. The City has few areas where project area EIRs have been adopted within the last five years. As the City moves forward with adopting transit station area plans, it may be able to take better advantage of these provisions.

To better take advantage of the bill's provisions sooner, staff recommends that the City suggest amending the legislation as follows:

- Instead of the requirement that an EIR for the area has been prepared in the last five years, allow eligibility if the local government makes findings that the EIR completed for the area is still current and relevant. This would extend the potential for some area EIRs where realizing development potential can take an extended period of time. For instance, the 65<sup>th</sup> Street Transit Village EIR was adopted in 2001, so this area would not be eligible.
- Instead of requiring that the parent EIR made no findings of overriding consideration related to traffic, include a provision that traffic levels anticipated from the proposed development do not exceed those analyzed in the prior EIR and are consistent with any findings of overriding consideration. A fair share for any required traffic mitigations could be applied to individual projects.

**Financial Considerations:**

There are no financial considerations associated with this report.

**Environmental Considerations:**

The proposed legislation would alter required environmental findings related to traffic in certain circumstances. As currently written, it would only affect the City after consideration of new transportation policies and preparation of area wide EIRs.

**Policy Considerations:**

The proposed ordinance is consistent with the City's Strategic Plan, three year goals to enhance sustainability and improve livability.

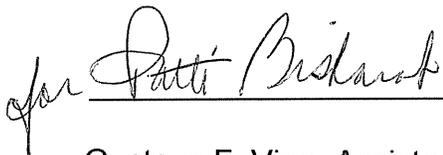
**Emerging Small Business Development (ESBD):**

No goods or services are being purchased under this report.

Respectfully Submitted by:   
Lucinda Willcox  
Infill Coordinator

Approved by:   
Carol Shearly  
Director of Planning

Recommendation Approved:

  
\_\_\_\_\_

Gustavo F. Vina, Assistant City Manager

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March 7, 2006

Honorable Dave Jones  
California State Assembly  
State Capitol  
Sacramento, CA 95814

Support: Assembly Bill 1387 Relating to Residential Infill Projects

Dear Assembly Member Jones:

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 1387 related to facilitating residential urban infill projects. As you know, higher density urban infill projects are an important component of the Sacramento region's future growth to address regional traffic congestion and support transit usage.

I would like to offer the following suggestions that would allow the City to better take advantage of the bill's provisions.

- Instead of the requirement that an EIR for the area has been prepared in the last five years, allow eligibility if the local government makes findings that the EIR completed for the area is still current and relevant.
- Instead of requiring that the parent EIR made no findings of overriding consideration related to traffic, include a provision that traffic levels anticipated from the proposed development do not exceed those analyzed in the prior EIR and are consistent with any findings of overriding consideration.

Thank you for considering these provisions, and for introducing this important legislation.

Sincerely,

LAUREN HAMMOND, Chair  
Law and Legislation Committee

cc: Mayor Fargo and Members of the City Council  
Senator David Cox  
Senator Deborah Ortiz  
Assembly Member Alan Nakanishi  
Assembly Member Roger Niello

March 7, 2006

Senate Environmental Quality Committee  
California State Senate  
State Capitol  
Sacramento, CA 95814

Support: Assembly Bill 1387 Relating to Residential Infill Projects

Dear Committee Members:

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 1387 related to facilitating residential urban infill projects. As you know, higher density urban infill projects are an important component of the Sacramento region's future growth to address regional traffic congestion and support transit usage.

I would like to offer the following suggestions that would allow the City to better take advantage of the bill's provisions.

- Instead of the requirement that an EIR for the area has been prepared in the last five years, allow eligibility if the local government makes findings that the EIR completed for the area is still current and relevant.
- Instead of requiring that the parent EIR made no findings of overriding consideration related to traffic, include a provision that traffic levels anticipated from the proposed development do not exceed those analyzed in the prior EIR and are consistent with any findings of overriding consideration.

Thank you for considering these provisions, and for introducing this important legislation.

Sincerely,

LAUREN HAMMOND, Chair  
Law and Legislation Committee

cc: Mayor Fargo and Members of the City Council  
Senator David Cox  
Senator Deborah Ortiz  
Assembly Member Dave Jones  
Assembly Member Alan Nakanishi  
Assembly Member Roger Niello  
Assembly Natural Resources Committee

AMENDED IN ASSEMBLY JANUARY 13, 2006

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1387**

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**Introduced by Assembly Member Jones**

February 22, 2005

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An act to add Section 21081.2 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1387, as amended, Jones. CEQA: residential infill projects.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA prohibits a public agency from approving or carrying out a project for which an environmental impact report has been certified that identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency makes specified findings with respect to each significant effect, including, among other things, that (1) the changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effect on the environment or (2) those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

The bill would provide that, *except as specified*, if a residential project, not exceeding ~~200~~ 100 units, with a minimum residential density of 20 units per acre, and within one-half mile of the transit stop, on an infill site, as defined, in an urbanized area, as defined, is in compliance with the traffic, circulation, and transportation policies of the general plan and applicable ordinances of the local government, and the local government with jurisdiction over the area where the project is located requires that the mitigation measures approved in a previously certified *project area* environmental impact report, *as the bill would define that term*, applicable to the project be incorporated into the project, the local government is not required to comply with specified requirements with respect to the making of any findings regarding the significant environmental effects from impacts of the project on traffic at intersections, or on streets, highways, or freeways.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 21081.2 is added to the Public
- 2 Resources Code, to read:
- 3 ~~21081.2. (a) If a residential project, not exceeding 200 units,~~
- 4 *21081.2. (a) Except as provided in subdivision (c), if a*
- 5 *residential project, not exceeding 100 units, with a minimum*
- 6 *residential density of 20 units per acre and within one-half mile*
- 7 *of a transit stop, on an infill site in an urbanized area is in*
- 8 *compliance with the traffic, circulation, and transportation*
- 9 *policies of the general plan and applicable ordinances of the local*
- 10 *government with jurisdiction over the area where the project is*
- 11 *located, and the local government requires that the mitigation*
- 12 *measures approved in a previously certified project area*
- 13 *environmental impact report applicable to the project be*
- 14 *incorporated into the project, the local government is not*
- 15 *required to comply with subdivision (a) of Section 21081 with*
- 16 *respect to the making of any findings regarding the impacts of*
- 17 *the project on traffic at intersections, or on streets, highways, or*
- 18 *freeways.*
- 19 (b) Nothing in subdivision (a) restricts the authority of a local
- 20 government to adopt feasible mitigation measures with respect to
- 21 the impacts of a project on pedestrian *and bicycle* safety.

- 1 (c) Subdivision (a) does not apply in any of the following  
2 circumstances:
- 3 (1) The application for a proposed project is made more than  
4 five years after certification of the project area environmental  
5 impact report applicable to the project.
- 6 (2) A major change has occurred within the project area after  
7 certification of the project area environmental impact report  
8 applicable to the project.
- 9 (3) The project area environmental impact report applicable  
10 to the project was certified with overriding considerations to the  
11 significant impacts on the environment with respect to traffic or  
12 transportation.
- 13 (4) The proposed project covers more than four acres.
- 14 (d) A project shall not be divided into smaller projects in  
15 order to qualify pursuant to this section.
- 16 (e) Nothing in this section relieves a local government from  
17 the requirement to analyze the project's effects on traffic at  
18 intersections, or on streets, highways, or freeways, or from  
19 making a determination that the project may have a significant  
20 effect on traffic.
- 21 (f) For the purposes of this section, "project area  
22 environmental impact report" means an environmental impact  
23 report certified on any of the following:
- 24 (1) A general plan.
- 25 (2) A revision or update to the general plan that includes at  
26 least the land use and circulation elements.
- 27 (3) An applicable community plan.
- 28 (4) An applicable specific plan.
- 29 (5) A housing element of the general plan, if the environmental  
30 impact report analyzed the environmental effects of the density of  
31 the proposed project.
- 32 (6) A zoning ordinance.