



City of Sacramento Law and Legislation Committee

COMMITTEE MEMBERS:

LAUREN HAMMOND, Chair (D-5)

SANDY SHEEDY (D-2)
Councilmember

STEVE COHN (D-3)
Councilmember

ROBBIE WATERS (D-7)
Councilmember

CITY STAFF:

Shirley Concolino
City Clerk

Patti Bisharat
Government Affairs

Yvette Rincon
Legislative Analyst

Joe Robinson
Deputy City Attorney

*City Hall
915 I Street, 1st Floor – Council Chambers*

June 8, 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 a particular class. Its purpose is to review state and federal legislation affecting the City and proposed changes to municipal ordinances in order to make recommendations to the full City Council.

NOTICE TO THE PUBLIC

You are welcomed and encouraged to participate in this meeting. Public comment is taken (3 minutes maximum) on items listed on the agenda when they are called. Public Comment on items not listed on the agenda will be heard at the end of the meeting as noted on the agenda. Comments on controversial items may be limited and large groups are encouraged to select 3-5 speakers to represent the opinion of the group.

Notice to Lobbyists: When addressing the Committee you must identify yourself as a lobbyist and announce the client/business/organization you are representing (City Code 2.15.160).

Speaker slips are located in the rack inside the chamber and should be completed and submitted to the City Clerk.

Government Code 54950 (The Brown Act) requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The City posts Agendas at City Hall as well as offsite meeting locations.

The order of Agenda items are listed for reference and may be taken in any order deemed appropriate by the legislative body. The Agenda provides a general description and staff recommendations; however, the legislative body may take action other than what is recommended. Full staff reports are available for public review on the City's website and include all attachments and exhibits. "To Be Delivered" and "Supplemental" reports will be published as they are received. Hard copies are available at the Office of the City Clerk. (25 cents per page)

Live video streams and indexed archives of meetings are available via the internet. Visit http://www.cityofsacramento.org/webtech/streaming_video/live_council_meetings.htm.

Meeting facilities are accessible to persons with disabilities. If you require special assistance to participate in the meeting, notify the Office of the City Clerk at (916) 808-7200 at least 48 hours prior to the meeting.

AGENDA

Thursday June 8, 2006

City Hall

915 I Street - First Floor Council Chamber

All items listed are heard and acted upon by the Law and Legislation Committee unless otherwise noted.

Call to Order

Roll Call

Consent Calendar

All items listed under 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. Approval of Minutes for May 16, 2006.

Location: (Citywide)

Recommendation: Approve Committee minutes for May 16, 2006.

Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

2. Law and Legislation Log

Location: (Citywide)

Recommendation: Approve legislative log

Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

3. Specialty Code Appeal Board Ordinances

Location: (Citywide)

Recommendation: Approve minor administrative amendments to the initial revisions to Title 2, Chapter 2.48 of the Sacramento City Code presented on March 7, 2006.

Contact: Carl Hefner, Assistant Chief Building Official, (916) 808-8779, Development Services.

Staff Reports

Staff reports include oral presentations including those recommending receive and file. Each speaker is limited to a maximum of 3 minutes.

4. Legislative Position: Support AB 2378 Relating to Housing and Density Bonus.

Location: Citywide

Recommendation: Adopt a support position on AB 2378.

Contact: Desmond Parrington, Associate Planner, (916) 808-5044, Development Services.

5. Amend Ordinance Relating to the Structure of the Sacramento Commission of History and Science.

Location: Citywide

Recommendation: Approve, and forward to Full Council, the proposed changes to the structure of the Sacramento Commission of History and Science.

Contact: James E. Henley, Manager, (916) 264-7072, Convention, Culture, and Leisure.

Public Comments- Matters Not on the Agenda

6. To be announced

Adjournment

7. To be announced

LAW AND LEGISLATION COMMITTEE
Preliminary Calendar
As of May 30, 2006

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

Tuesday June 20, 2006

Mobile Food Vendor Ordinance – **Finance**

July 18, 2006

Amend City Code Regarding Animal Control – **General Services Dept.**

Amending Ordinance Sections 8.04.430 and 8.96.360 Relating to Liens – **Code Enforcement**

Solid Waste and Recycling Facility Fee – **Solid Waste Department**

August 1, 2006

Front yard Landscaping – **Code Enforcement**

PENDING ORDINANCES/REPORTS:

Report Back on Contract Standards – **Finance/Procurement Department**

Report Back on Representation of Neighborhood Associations - **Development Svcs/NSD**

Contractual Conflict of Interest of City Employees – **Finance Department**

Drug & Gun Free Zones and Creation of Civil Exclusion - **Police**

Report Back on City-wide Sign Ordinance - **Development Svcs**

Illegal Dumping Vehicle Impound Ordinance – **Utilities Department**

Housing Trust Fund Nexus Study - **Development Svcs**

Amend Ordinance Regarding Reward Program – **Utilities Department**

Amend Tree Ordinance – **Parks & Rec**

Public Financing of Campaigns – **City Clerk**

Report Back on Rental Inspection Pilot Program – **Code Enforcement**

Report Back on City Infill Housing Project – **Development Svcs**

Amend Ordinance Relating to Recycling Centers – **Development Svcs**

Discussion paper on Truancy/Daytime Curfew for Teens – **Police Department**

Discussion paper on Trespassing Ordinance – **Code Enforcement & Police**

Amendments to Update Development Services Code – **Development Svcs**

Alcohol Use Permit Processing Ordinance – **Police Department**

Amendments to Marina Ordinance – **Convention Culture & Leisure**

R Street Urban Design Plan and SPD Amendments - **Development Svcs**

Ordinance to Regulate Valet Parking – **Transportation Dept.**

AB 777 Relating to Tax Credits and Motion Picture Production – **City Manager's Office**

AB 2987 Cable & Video Service – **City Manager's Office**

Discussion Paper on an Ordinance to implement the Disease Prevention Project – **City Manager's Office**



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

①

Consent
June 8, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Approval of Minutes – May 16, 2006

Location/Council District: All

Recommendation: Approve the minutes for the Committee meeting of May 16, 2006.

Contact: Yvette Rincon, Legislative Analyst - 808-5827

Presenters: None

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 May 16, 2006.

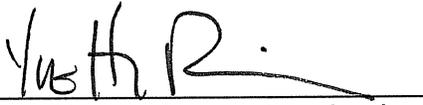
Committee/Commission Action: None.

Financial Considerations: None.

Environmental Considerations: None.

Policy Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Yvette Rincon, Legislative Analyst

Recommendation Approved:

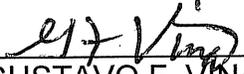

GUSTAVO F. VINA
Assistant City Manager

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City of Sacramento Law and Legislation Committee MINUTES

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
May 16, 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.

All meetings will be held at the date, time and place indicated; and the subjects to be considered and acted upon shall be those as listed on the agenda. The numbered items listed on the agenda are a brief description of business to be transacted or discussed; the recommendations of the staff as shown, do not prevent the committee from taking other action.

This agenda may be amended up to 72 hours prior to the meeting being held. An Agenda is located in the posting cabinet on the I Street side of City Hall. Any item not addressed at this meeting may be continued, by motion, to a future afternoon or evening meeting.

Meeting facilities are accessible to persons with disabilities. Please notify the City Clerk's office at (916) 808-7200 at least 48 hours prior to the meeting if you require special assistance to participate in the meeting. The meeting is archived and accessible along with other meeting information on the City's website.

**Law and Legislation Committee
MINUTES**

CALL TO ORDER – 12:35 PM

ROLL CALL – All Members Present

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 May 4, 2006 Minutes

RECOMMENDATION: Approve May 4, 2006 Minutes

ACTION: Moved/Seconded/Carried (Waters/Sheedy) approval of May 4, 2006 minutes.

2.0 Law and Legislation Log

RECOMMENDATION: Approve legislative log

ACTION: Moved/Seconded/Carried (Waters/Sheedy) approval of legislation log

Staff Reports

Each speaker is limited to a maximum of 3 minutes.

3.0 Legislative Position: Support AB 2745 Relating to Hospital Discharge Plans and Homeless Patients.

RECOMMENDATION: Adopt a support position on AB 2745.

ACTION: Moved/Seconded/Carried (Sheedy/Cohn) approval of a support position on AB 2745.

4.0 Legislative Position: Support AB 2923 Relating to Graffiti, Vandalism, and Driver's License.

RECOMMENDATION: Adopt a support position on AB 2923.

ACTION: Moved/Seconded/Carried (Cohn/Sheedy) approval a support position on AB 2923.

5.0 Legislative Position: Support SB 1008 Relating to Enterprise Zones

RECOMMENDATION: Adopt a support position on SB1008.

ACTION: Moved/Seconded/Carried (Sheedy/Hammond) approval of a support position on SB 1008.

6.0 Ordinance Amending Sections 10.04.010 and 10.36.140, and deleting Section 10.36.260 of the Sacramento City Code relating to Temporary Construction Parking Permits.

RECOMMENDATION: Approve ordinance amendments and forward to Council.

ACTION: Moved/Seconded/Carried (Cohn/Waters) approval of the ordinance amendments and forwarded to City Council.

7.0 Legislative Position: Oppose AB 2922, as currently written, Relating to Redevelopment.

RECOMMENDATION: Adopt an oppose position on AB 2922, as currently written.

Public testimony was given by Thomas Clark.

ACTION: Moved/Seconded/Carried (Cohn/Hammond) approval of a support if amended position on AB 2922. The Committee's position was support if amended to include the following amendments:

Related to the percentage set aside for affordable housing:

- 1) The housing set-aside requirement should apply to net tax increment proceeds;
- 2) An increase from the existing 20 percent requirement up to 35 percent of net proceeds should phase in over time;
- 3) The increased percentage should have a sunset provision.

Related to the income targeting to extremely low and very low income households, the Committee suggested the following amendment. The percentage allocated to extremely low income should be a function of the housing needs allocation required in the housing element. Instead of applying a single standard statewide, the Committee suggested that local housing element data include extremely low income need. If this change were made to housing element law, extremely low income would simply be added within the expenditure requirements of redevelopment law.

Citizens Addressing Council (Matters not on the Agenda)

Each speaker is limited to a maximum of 3 minutes.

8.0 To be announced

Adjournment

9.0 Adjourned - 1:30 PM

Legislation Log

Legislation Log						8-May-06	
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
1	Tot Lot Ordinance	CM Sheedy/Parks & Rec/Alan Boyd	Pending	<p>NEW OR UPDATED ITEMS</p> <p>CM Sheedy asked staff to research an ordinance that would give the city the necessary authority to keep tot lots available for use for only children and not adults.</p>	TBD	TBD	Parks & Rec
2	Amend Ordinance Relating to Recovery of Costs Incurred Due to Enforcement of City Code	Code Enforcement/ Max Fernandez	18-Jul-06	<p>An Ordinance amending Section 8.04.430 of Chapter 8.04, and amending Section 8.96.360 of Chapter 8.96 of the Sacramento City Code relating to Recovery of Costs Incurred in the Enforcement of the Nuisance Code, Housing Code, and Dangerous Buildings Code.</p>	TBD	TBD	Code Enforcement
3	Discussion Paper on an Ordinance to Participate in the Disease Prevention Project	CM Tretheway/ CMO/ Yvette Rincon	August	<p>CM Tretheway asked staff to research an ordinance that would permit the City to participate in the Disease Prevention Demonstration Project as authorized by SB 1159 in 2004, this program would include a needle exchange program.</p>	TBD	TBD	TBD
				SCHEDULED LAW & LEG ITEMS			
4	Mobile Food Vendor Ordinance	CM Tretheway/ Aaron Chong	20-Jun-06	<p>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.</p>	Potentially Yes	Moderate	Finance/Dev Svcs/Code

¹ 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.

² 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
5	3.06.1 Amend City Code related to Animal Control	CM Sheedy/DGS/ Hector Cazares	18-Jul-06	Amend City Code regarding: dog leash length and barking dog and anti-breeding citations and fees.	Yes	Limited	DGS
6	4.04.1 Solid Waste Facility Fee/ Host Benefit Fee	General Svcs/ Harold Duffy	18-Jul-06	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
7	03.05.03 Front yard Landscaping Ordinance	NSD/ Max Fernandez	June/July	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
8	1.06.3 Update on Rental Inspection Program Pilot	L&L Committee/ Code	Fall 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
9	3.06.3 Report Back on City Infill Housing Project	L&L Committee/ DSD/ Luncinda Wilcox	September 2006	The Law & Leg Committee heard this item on 3/7/06 and requested a report back in six months on the status of the project to include the housing plans that have been approved to date.	No	N/A	DSD
10	1.05.02 Amend Tree Ordinance	Parks & Rec/ Joe Benassini	Fall 2006	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.	To be Determined	To be determined	Parks & Rec
11	03.05.05 Public Campaign Financing	CMO/ Clerk	Winter 2006	Staff returning to committee, per City Council direction, to review what other cities do regarding qualifications on use of public funds for campaigns and oversight.	Yes	Moderate	CMO/Clerk

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.

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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
				LAW AND LEG COMMITTEE ORDINANCE & REPORTS - DATE PENDING			
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	Limited	Citywide
13	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	Significant	Police/CAO
14	Update on Sign Ordinance and Sign Program	CM Waters/Dev Svcs/ NSD	Pending	Development Svcs staff will meet with CM Waters to provide an update. 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
15	Illegal Dumping Vehicle Impound Ordinance	CM Hammond Utilities/Harold Duffy	Pending	Provide for seizure and impound for a specified time for vehicles involved in illegal dumping. Code and CAO working on options. Pending court decision.	Potentially Yes	Significant	Utilities/Code
16	Housing Trust Fund Nexus Study	Dev Svcs	Pending	Item heard by Council on April 18 as part of the Affordable Housing Workshop. Based on the recommendations by Council, staff will bring this item to L&L.	Possibly	To Be Determined	Dev Svcs
17	Amend Ordinance Relating to Reward Program	Waters/Utilities/ Harold Duffy	Pending	Amend ordinance relating to reward program to allow payment of reward at arrest and prosecution.	Unlikely	Limited	Utilities

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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
18	Report Back on Representation of Neighborhood Associations	CM Sheedy/DSD/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. Staff will update the Neighborhood Assoc. list and discuss options to public outreach.	To Be Determined	To Be Determined	DSD/NSD
19	Report Back on Contract Standards	CM Sheedy/Finance/Procurement	Pending	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	Finance
20	Amend Ordinance relating to Recycling Centers	CM Hammond/DSD	Pending	Address design guidelines for recycling cubicles (dumpsters), definition of recycling and developing siting criteria.	TBD	TBD	DSD
21	Truancy/Daytime Curfew for Teens	CM McCarty/Police	Pending	Research possible ordinance regarding truancy/daytime curfew for teens.	TBD	TBD	Police
22	Amendments to Development Svcs code	DSD/Julia McGinnis	Pending	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	Limited	Dev Svcs
23	Amendments to Marina Code	CC&L/Michelle Hoppner	Pending	Amendments to the Marina Code to update and address administrative processes.	Yes	Moderate	CC&L

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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
24	12.04.1 Approved Alcohol Use Permits Processing	CM Hammond/ Police/Sherri Scruggs	Pending	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
25	7.04.2 Amendments to R Street SPD	Dev Svcs/Tara Goddard	Pending	Amendments to R Street Special Planning District to Facilitate Development	To be Determined	To be Determined	Dev Svcs
26	3.06.6 Discussion Paper on a Trespassing Ordinance	CM Tretheway/ Code & Police / Max Fernandez	Pending	Amend ordinance relating to trespassing on private property.	Possibly	TBD	Code/Police
27	04.06.1 Ordinance to Regulate Valet Parking Operations	DOT/Howard Chan	pending	Any valet parking operator who performs valet parking services at a restaurant or other place of public assembly will be required to have a valet parking permit.	TBD	TBD	DOT

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**REPORT TO LAW AND LEGISLATION
COMMITTEE**

City of Sacramento

915 I Street, Sacramento, CA 95814-2671

www.cityofsacramento.org

3

**CONSENT
June 8, 2006**

Honorable Members of the
Law and Legislation Committee

Subject: Amend Title 2, Chapter 2.48 of the City Code to establish the Building Codes Administrative Appeals Board and modify the existing Construction Codes Advisory and Appeals Board to create the Building and Fire Code Advisory and Appeals Board; add Chapter 2.49 to create the Mechanical and Plumbing Code Advisory and Appeals Board; add Chapter 2.50 to create the Electrical Code Advisory and Appeals Board.

Location/Council District: Citywide

Recommendation:

It is recommended that the Law and Legislation Committee approve minor administrative amendments to the initial revisions to Title 2, Chapter 2.48 of the Sacramento City Code presented to the Law and Legislation Committee on March 7, 2006. The initial revisions established a two (2) tiered code appeals process consisting of one (1) Administrative Appeals Board and three (3) Specialty Boards of Appeal.

Contact: Carl Hefner, Assistant Chief Building Official, 808-8779

Presenters: Not applicable

Department: Development Services

Division: Building Division

Organization No: 4861

Summary:

On March 7, 2006, Development Services staff presented a plan 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. Upon further examination of the proposed Code language, it was determined that three (3) minor administrative amendments were needed for the efficient implementation of the Boards.

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; 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.

The three minor administrative amendments may be summarized as follows:

I. Number of Alternates / Board Membership

Initially, each board member was to have an alternate and after further review it was determined to be unworkable due to the difficulty in recruiting and maintaining such a large number of alternates and logistical problems in forecasting the need for alternate attendance. In addition, the proposed Accessibility Member for the Building and Fire Code Advisory and Appeals Board was removed because accessibility appeals are currently within the jurisdiction of the Joint City/County Disabilities Appeal Board.

II. Meeting Dates

The original language proposed specified that the Building Codes Advisory and Appeal Boards meet quarterly and additional monthly meetings would be held as necessary to hear appeals. An appeal hearing before the Building Codes Advisory and Appeal Boards was to be scheduled within 21 days after filing of an appeal application or referral from the Building Official. It is believed by staff that a regular monthly meeting yields more predictable and timely hearings, thereby better serving the appellants.

III. Appeal Period

The original code language specified that an appeal must be submitted in writing and filed with the Department of Development Services within fourteen (14) days of the action by any of the proposed Boards. The new language proposes that an appeal

must be submitted in writing within ten (10) calendar days. The ten day (10) period is consistent with all other Boards and Commissions the Development Services Department supports.

Financial Considerations:

This report has no financial consideration

Environmental Considerations:

This report is not related to a specific project and 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

Emerging Small Business Development (ESBD):

No goods or services are being purchased under this report.

Respectfully Submitted by: 
Carl Hefner
Assistant Chief Building Official

Approved by: 
William Thomas
Director of Development Services

Recommendation Approved:


Gus 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

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

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SECTION 1.

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

2.40.030 Applicability.

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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;
- Building and fire code advisory and appeals board;
- Civil service board;
- Design review and preservation board;
- Electrical code advisory and appeals board;
- Housing code advisory and appeals board;
- Mechanical and plumbing code advisory and appeals board;
- Old Sacramento variance appeals board;
- Planning commission;
- Retirement hearing commission;
- Sacramento city public facilities financing corporation;
- Board of plumbing examiners.

SECTION 2.

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

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FOR CITY CLERK USE ONLY¶
¶
ORDINANCE NO. _____¶
DATE ADOPTED: _____

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SECTION 3.

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

Chapter 2.48

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BUILDING AND FIRE CODE ADVISORY AND APPEALS BOARD

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2.48.010 Board established.

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

2.48.020 Definitions.

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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.

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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:

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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 supercede 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

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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.

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

A. One member shall be 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.

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B. One member shall be 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;

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C. One member shall be a California registered architect who has been licensed and has practiced in California for at least three years immediately preceding appointment;

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D. One member shall be a California registered structural engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment;

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E. One member shall be a California licensed fire protection engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment.

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2.48.050 Term of Office.

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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 for a one-year term, two members for a two-year term, and one member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member shall serve more than two consecutive terms. In the event a vacancy occurs during the term of any member, 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 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.

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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.

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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.

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2.48.080 Board Meetings.

The Board shall establish a time and place for regular meetings to be held not less than once each month. 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.

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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.

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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.

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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 ten 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

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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 ten 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.

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C. In the event the Building Official does not issue a written decision or refer a request to the Board within ten 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 eleventh calendar day following the filing of the completed request for review; provided, however, if the eleventh calendar day falls on a Saturday, Sunday, or legal holiday, the decision shall be deemed made on the next following business day.

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2.48.120 Appeals to Board.

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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 ten 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. Upon receipt of any appeal file and the appeal fee pursuant to this section, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.48.130

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 ten calendar days of the filing of the completed request for review.

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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

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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.

In the event the Building Official refers a request to the Board pursuant to Section 2.48.110(B), or upon receipt of any appeal filed and the appeal fee pursuant to Section 2.48.120, the Building Official shall calendar it for hearing as follows:

A. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, not later than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

B. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, on a date less than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

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 ten 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.

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B. Failure to properly file a written appeal of the decision of the Board within ten 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.

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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.

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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.

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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;
- Building and fire code advisory and appeals board;
- Civil service board;
- Design review and preservation board;
- Electrical code advisory and appeals board;
- Housing code advisory and appeals board;
- Mechanical and plumbing code advisory and appeals board;
- Old Sacramento variance appeals board;
- Planning commission;
- Retirement hearing commission;
- Sacramento city public facilities financing corporation;
- 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 supercede 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 five members appointed by the Mayor with the approval of the City Council, subject to the following requirements:

A. One member shall be 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 shall be 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 shall be a California registered architect who has been licensed and has practiced in California for at least three years immediately preceding appointment;

D. One member shall be 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 shall be a California licensed fire protection engineer who has been licensed and has practiced in California for at least three years immediately preceding appointment.

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 for a one-year term, two members for a two-year term, and one member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member shall serve more than two consecutive terms. In the event a vacancy occurs during the term of any member, 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 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 establish a time and place for regular meetings to be held not less than once each month. 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.

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 ten 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 ten 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 ten 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 eleventh calendar day following the filing of the completed request for review; provided, however, if the eleventh 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 ten 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. Upon receipt of any appeal file and the appeal fee pursuant to this section, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.48.130

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 ten 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.

In the event the Building Official refers a request to the Board pursuant to Section 2.48.110(B), or upon receipt of any appeal filed and the appeal fee pursuant to Section 2.48.120, the Building Official shall calendar it for hearing as follows:

A. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, not later than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

B. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, on a date less than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

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 ten 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 ten 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.

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

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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;

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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 appointed by the Mayor with the approval of the City Council, subject to the following requirements:

- A. One member shall be 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 shall be 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 shall be 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 for a one-year term, one member for a two-year term, and one member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member shall serve more than two consecutive terms. In the event a vacancy occurs during the term of any member, the Mayor shall appoint, with the approval of the City Council, a successor to

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serve the unexpired term, subject to the requirements set forth in Section 2.49.040. A member 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 establish a time and place for regular meetings to be held not less than once each month. 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.

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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 ten 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).

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B. At any time within ten 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.

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C. In the event the Building Official does not issue a written decision or refer a request to the Board within ten 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 eleventh calendar day following the filing of the completed request for review; provided, however, if the eleventh calendar day falls on a Saturday, Sunday, or legal holiday, the decision shall be deemed made on the next following business day.

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2.49.120 Appeals to Board.

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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 ten 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. Upon receipt of any appeal file and the appeal fee pursuant to this section, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.49.130

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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 Mechanical Code or the California Plumbing Code to the Board unless (1) the person submitted a completed

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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 ten calendar days of the filing of the completed request for review.

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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.

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2.49.130 Hearings.

In the event the Building Official refers a request to the Board pursuant to Section 2.49.110(B), or upon receipt of any appeal filed and the appeal fee pursuant to Section 2.49.120, the Building Official shall calendar it for hearing as follows:

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A. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, not later than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

B. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, on a date less than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

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.

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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 ten 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.

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B. Failure to properly file a written appeal of the decision of the Board within ten 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.

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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 appointed by the Mayor with the approval of the City Council, subject to the following requirements:

- A. One member shall be 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 shall be 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 shall be 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 for a one-year term, one member for a two-year term, and one member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member shall serve more than two consecutive terms. In the event a vacancy occurs during the term of any member, 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 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 establish a time and place for regular meetings to be held not less than once each month. 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 ten 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 ten 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 ten 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 eleventh calendar day following the filing of the completed request for review; provided, however, if the eleventh 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 ten 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. Upon receipt of any appeal file and the appeal fee pursuant to this section, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.49.130

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 Mechanical Code or the California Plumbing 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 ten 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.

In the event the Building Official refers a request to the Board pursuant to Section 2.49.110(B), or upon receipt of any appeal filed and the appeal fee pursuant to Section 2.49.120, the Building Official shall calendar it for hearing as follows:

A. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, not later than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

B. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, on a date less than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

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 ten 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 ten 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.

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

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

SECTION 1.

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

Chapter 2.50

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ELECTRICAL CODE ADVISORY AND APPEALS BOARD

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2.50.010 Board established.

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

2.50.020 Definitions.

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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.

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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.

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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.

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

- A. One member shall be 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 shall be 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 shall be 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.

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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 for a one-year term, one member for a two-year term, and one member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member shall serve more than two consecutive terms. In the event a vacancy occurs during the term of any member, 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 shall hold office until his or her successor has been appointed. A successor

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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.

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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.

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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.

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The Board shall establish a time and place for regular meetings to be held not less than once each month. 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.

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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.

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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.

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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

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provide a written decision within ten 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).

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B. At any time within ten 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.

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C. In the event the Building Official does not issue a written decision or refer a request to the Board within ten 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 eleventh calendar day following the filing of the completed request for review; provided, however, if the eleventh calendar day falls on a Saturday, Sunday, or legal holiday, the decision shall be deemed made on the next following business day.

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2.50.120 Appeal to Board

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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 ten 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. Upon receipt of any appeal file and the appeal fee pursuant to this section, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.50.130

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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 ten calendar days of the filing of the completed request for review.

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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

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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.

In the event the Building Official refers a request to the Board pursuant to Section 2.50.110(B), or upon receipt of any appeal filed and the appeal fee pursuant to Section 2.50.120, the Building Official shall calendar it for hearing as follows:

A. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, not later than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

B. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, on a date less than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

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 ten 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 ten 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.

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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.

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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.

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DATE ADOPTED: _____
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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 appointed by the Mayor with the approval of the City Council, subject to the following requirements:

- A. One member shall be 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 shall be 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 shall be 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 for a one-year term, one member for a two-year term, and one member for a three-year term, as determined by the City Clerk based on the drawing of lots. No member shall serve more than two consecutive terms. In the event a vacancy occurs during the term of any member, 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 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 establish a time and place for regular meetings to be held not less than once each month. 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 ten 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 ten 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 ten 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 eleventh calendar day following the filing of the completed request for review; provided, however, if the eleventh 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 ten 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. Upon receipt of any appeal file and the appeal fee pursuant to this section, a hearing before the Board shall be scheduled and conducted as set forth in Section 2.50.130

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 ten 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.

In the event the Building Official refers a request to the Board pursuant to Section 2.50.110(B), or upon receipt of any appeal filed and the appeal fee pursuant to Section 2.50.120, the Building Official shall calendar it for hearing as follows:

A. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, not later than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at said meeting.

B. If the Building Official refers the request to the Board, or if the appeal is received by the Building Official, on a date less than fifteen calendar days prior to the next regular meeting of the Board, it shall be calendared for hearing at the next subsequent meeting of the Board.

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 ten 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 ten 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.



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

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STAFF REPORT
June 8, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Legislative Position: Support AB 2378 Relating to Housing and Density Bonus Law

Location/Council District: Citywide

Recommendation:

Staff recommends that the Law and Legislation Committee adopt a support position on AB 2378 (Evans) relating to housing and density bonus law.

Contact: Desmond Parrington, Associate Planner, 808-5044

Presenters: Desmond Parrington, Associate Planner

Department: Development Services

Division: Long Range Planning

Organization No: 4827

Summary:

This report provides information on AB 2378, authored by Assemblymember Noreen Evans. AB2378 extends the continued affordability agreement to moderate-income dwelling units in a common interest development by requiring that affordability for 10 to 15 years, to be determined at the discretion of the city. In addition, AB2378 would require the city to ensure that continued affordability.

Committee/Commission Action: None.

Background Information:

When a developer proposes a housing development and seeks a density bonus, Planning and Zoning Law requires that the city or county provide the developer with a density bonus or other incentives or concessions for the production of lower income housing units. The developer may also provide a donation of land within the development if the developer meets certain requirements, including a requirement that the developer agrees to construct a prescribed percentage of the total units for specified income households or qualifying residents.

Existing law requires the applicant for a density bonus, incentive, or concession to agree to, and the city, county, or city and county to ensure, continued affordability of all **very low and low-income** units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

This bill would extend the continued affordability agreement to **moderate-income** dwelling units in a common interest development by requiring that affordability for 10 to 15 years, to be determined at the discretion of the city, county, or city and county, and would require a city, county, and city and county to ensure that affordability.

The benefit to the city would be the ability to ensure that moderate-income units provided, as part of a density bonus, would remain affordable to moderate income households rather than have them lose that affordability after they are sold by the first set of owners.

Financial Considerations: None.

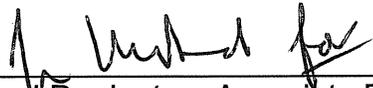
Environmental Considerations:

This report concerns administrative activities that will not have any significant effect on the environment, and that do not constitute a "project" as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2)].

Policy Considerations:

The intent of this bill is consistent with the Mayor and Council's priority of providing safe and affordable housing throughout the City. This bill would allow the City to hold on to more of its affordable housing for a longer period of time.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Desmond Parrington, Associate Planner

Approved by: 
Carol Shearly,
Director of Planning

Recommendation Approved:


GUSTAVO F. VINA
Assistant City Manager

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**Attachment A
AB 2378 (Evans)**

BILL NUMBER: AB 2378 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MARCH 30, 2006

INTRODUCED BY Assembly Member Evans

FEBRUARY 23, 2006

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2378, as amended, Evans Housing: density bonus.

(1) The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus or other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer meets certain requirements, including a requirement that the developer agrees to construct a prescribed percentage of the total units for specified income households or qualifying residents.

Existing law requires the applicant for a density bonus, incentive, or concession to agree to, and the city, county, or city and county to ensure, continued affordability of all very low and low-income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

This bill would extend the continued affordability agreement to moderate-income dwelling units in a common interest development *by requiring that affordability for 10 to 15 years, to be determined at the discretion of the city, county, or city and county*, and would require a city, county, and city and county to ensure that affordability. By requiring local government entities to ensure the affordability of these units, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates

determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (g), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 1351 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (g), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all *low- and very low income* units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if

required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all moderate-income units that qualified the applicant for the award of the density bonus for 10 to 15 years, to be determined at the discretion of the city, county, or city and county, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Owner-occupied units shall be available at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code.

~~(2)~~

(3) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity-sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity-sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city,

county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of either of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision does not require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision does not require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section. The city, county, or city and county shall also establish procedures for

waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, items as such minimum lot size, side yard setbacks, and placement of public works improvements.

(e) In no case may a city, county, or city and county apply any development standard that will have the effect of precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision does not require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. This subdivision does not require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(f) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(g) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23

13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
----------------------------------	--------------------------

10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30

36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. As used in subdivision (b), "total units" or "total dwelling units" does not include units permitted by a density bonus awarded pursuant to this section or any local law granting a greater density bonus. The density bonus provided by this section shall apply to housing developments consisting of five or more dwelling units.

(h) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county as provided for in this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
----------------------------	--------------------------

10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22

18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required pursuant to this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. This subdivision does not enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have

appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(D) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of dedication.

(E) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(F) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(i) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or a city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but

not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(j) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(k) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(l) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) This section does not prohibit a city, county, or city and

county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedrooms: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subdivision (d).

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Attachment B

June 8, 2006

The Honorable Noreen Evans
California State Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0007

Support: Assembly Bill 2378 Relating to Housing and Density Bonus

Dear Assemblymember Evans:

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 2378 relating to long-term housing affordability. This would ensure that moderate-income units which are provided as part of the density bonus would remain affordable for a longer period of time. The benefit to the City would be that we would be able to ensure that moderate-income units provided, as part of a density bonus, would remain affordable to moderate income households rather than have them lose that affordability after they are sold by the first set of owners. While the City would be more supportive of a 30-year affordability provision, we still support the 10-15 year provision.

Thank you for introducing this important piece of legislation.

Sincerely,

LAUREN HAMMOND, Chair
City of Sacramento Law and Legislation Committee

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



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
June 8, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Amend Ordinance Number 90-016 Relating to the Structure of the
Sacramento Commission of History and Science

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee approve, the proposed changes to Ordinance Number 90-016 regarding the Structure of the Sacramento Commission of History and Science. Upon receiving the Law and Legislation Committee's authorization to make the recommended changes, staff will work with the City Attorney's office to draft the specific Ordinance language which will be presented to the full City Council for its adoption.

Contact: James E. Henley, Manager, History and Science Division, 264-7072

Presenters: James E. Henley, Manager, History and Science Division, 264-7072

Department: Convention, Culture and Leisure Department

Division: History & Science

Organization No: 4251

Summary:

The proposed changes to Ordinance Number 90-016, establishing the Sacramento Commission of History and Science, reassign one vacant Commission position and restructure the Committees to reflect the functional and financial realities under which the Commission now exists.

Committee/Commission Action:

At its regularly scheduled meeting of April 6, 2006, the Sacramento Commission of History & Science unanimously moved to re-organize the Commission structure as proposed in this report.

Background Information:

- The Sacramento Commission of History & Science, in its current form, was established by ordinances of both the City and the County of Sacramento, adopted by the County in February 1990 and by the City in May, 1990. Earlier configurations of this Commission date back to 1954 and include the Sacramento Museum and History Commission and still earlier, the Historic Landmarks Commission.
- There are a total of fifteen (15) appointed Commission positions, five of which are appointed by the City Council, and five by the County Board of Supervisors.
- One Commissioner is appointed by the Mayors of Folsom, Isleton and Galt and ratified by the City and the County of Sacramento.
- The existing ordinance dictates that the four remaining Commissioners are appointed by representative non-profit organizations throughout the County, specifically, the "Sacramento County Historical Society", the "Sacramento History Center Association", the "Sacramento Science Center and Junior Museum", and the "American River Natural History Association".
- Originally, the "Sacramento History Center Association" and the "Sacramento Science Center and Junior Museum" were separate entities, each with its own representative to the Commission. However, in 1993, they merged into a single entity under one Board of Directors. The new entity is known as the "Discovery Museum". In the interest of fairness, the Discovery Museum is entitled to only one representative on the Commission. The Discovery Museum currently has one appointee in place, while the position formerly assigned to the Sacramento Science Center is vacant. It is recommended that the Sacramento Science Center position be converted to a representative jointly-appointed by both the City Council and the Board of Supervisors. It is also recommended that the reference to the "Sacramento Science Center and Junior Museum" be eliminated.
- The current ordinance also prescribes four Committees: (1) the "Executive Committee"; (2) the "History & Science Committee"; (3) the "Community Outreach and Education Committee" and (4) the "Grants and Awards Committee". The Grants and Awards Committee was established to make recommendations for grants to worthy History-related organizations from the County Board of Supervisors Transient Occupancy (T.O.) Tax Fund. The County has been unable to allocate any part of the T.O. Tax for several years for History-related issues.
- As the purpose of the Grants and Awards Committee has become obsolete, it is recommended that reference to this function be removed from the current ordinance and the Committees be restructured. At its regularly scheduled April 6, 2006 meeting, the Commission voted to retain the Executive Committee and to restructure the other three Committees as follows: the "Monuments Committee" would be responsible for identifying sites for the placement of historic monuments, researching and composing interpretive text for the monuments, identifying proposed designs, and estimating the costs, all subject to the approval of the City Council and the Board of Supervisors. The "Landmarks Committee" would be responsible for identifying sites for the placement of historic

plaques, researching and composing interpretive text for the plaques, identifying proposed designs, and estimating the costs, all subject to the approval of the City Council and the Board of Supervisors. The "Education Committee" would combine the oversight and reporting responsibilities of the History & Science Committee and the programming responsibilities of the Community Outreach and Education Committee.

Financial Considerations:

The Ordinance changes recommended in this report will have no financial consequences to the City.

Environmental Considerations:

None.

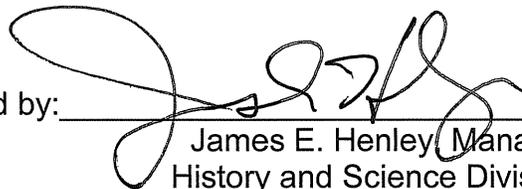
Policy Considerations:

The actions recommended in this report support the City's Core Values of Inclusiveness, and Community Participation and Input.

Emerging Small Business Development (ESBD):

Not applicable.

Respectfully Submitted by:



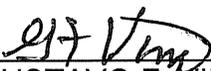
James E. Henley, Manager
History and Science Division

Approved by:



Barbara E. Bonebrake, Director
Convention, Culture and Leisure Department

Recommendation Approved:



GUSTAVO F. VINA
Assistant City Manager

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