



# REPORT TO COUNCIL

## City of Sacramento

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915 I Street, Sacramento, CA 95814-2604  
www.CityofSacramento.org

Public Hearing  
February 6, 2007

Honorable Mayor and  
Members of the City Council

**Title:** Specialty Code Appeals Boards Appeal Fees

**Location/Council District:** Citywide

**Recommendation:** Conduct a public hearing and upon conclusion adopt a **Resolution** 1) establishing an appeal fee in the amount of \$150 for appeals to the Building and Fire Code Advisory and Appeals Board, the Electrical Code Advisory and Appeals Board, and the Mechanical and Plumbing Code Advisory and Appeals Board; 2) establishing an appeal fee in the amount of \$550 for appeals from the Building and Fire Code Advisory and Appeals Board, the Electrical Code Advisory and Appeals Board, and the Mechanical and Plumbing Code Advisory and Appeals Board.

**Contact:** Robert Lee Chase AIA, Chief Building Official, (916) 808- 8024; Carl Hefner, Deputy Chief Building Official, (916) 808-8779.

**Presenter:** Carl Hefner, Deputy Chief Building Official

**Department:** Development Services

**Division:** Building

**Organization No:** 4881

**Description/Analysis:**

**Issue:** City Council approved the creation of the new Building Specialty Code Appeals Board on July 18, 2006 thereby providing an efficient method for resolution of disputes concerning alternate materials and methods of construction. The current appeal procedure has a two-tiered appeal process. If an applicant is dissatisfied with City staff's determination regarding a proposed alternate design, method, or material, or the application or interpretation of building codes and regulations, then the first tier of the appeals process is on a staff level and consists of the Chief Building Official and appropriate City staff. The Chief Building Official may affirm, modify, or deny the proposed alternate design, method, or material, as well as the application or interpretation of building codes and regulations. It is not proposed to assess a fee for this first level of appeal.

If an appellant is not satisfied with the decision of the Chief Building Official and an acceptable alternative cannot be negotiated, the appellant has the option of



requesting a hearing before one of three specialty code appeals boards, collectively known as the Specialty Code Advisory and Appeals Board. Pursuant to Chapter 2.48, 2.49, and 2.50 of the Sacramento City Code, this second level of appeal requires a public hearing before a board made up of qualified individuals from the private sector having knowledge in the specific code area being appealed. The three specialty boards are as follows:

- Building and Fire Code Advisory and Appeals Board
- Electrical Code Advisory and Appeals Board
- Mechanical and Plumbing Code Advisory and Appeals Board

The fee to appeal to each of the Specialty Code Advisory and Appeals Board is proposed to be \$150. For more substantive and complex appeals, the Chief Building Official shall have the option of forwarding an appeal directly to the appropriate Specialty Code Advisory and Appeals Board without review at the administrative level. If this were to occur, the appellant would not be assessed an appeal fee.

Finally, also pursuant to the City Codes sections cited above, a decision from one of the three Specialty Code Advisory and Appeal Boards may be appealed to the City Council. It is proposed that the City Council appeal fee be set at \$550.00.

**Policy Considerations:** This proposal is consistent with existing City policy to require payment of fees for appeals of staff decisions. In addition, the proposal is consistent with the idea that appeals should be accessible to the public and not cost prohibitive.

**Committee/Commission Action:** The creation of the Specialty Code Advisory and Appeals Board was presented and approved by the Development Oversight Commission on September 25, 2005, the Law & Legislation Committee on June 8, 2006 and the City Council on July 18, 2006.

**Rationale for Recommendation:** Creation of the Specialty Code Advisory and Appeals Board is consistent with the administrative sections of the California Uniform Building Code as well as Development Services Department's success measurements of "*Clear, Timely, Predictable, and Seamless.*" It is also consistent with the Development Services Department strategic area of "*Promoting an Appropriate Regulatory Environment.*" Last, the recommendations in this report are consistent with the existing practice of assessing fees for appeals of other decisions including planning, design review, preservation, and zoning.

**Environmental Considerations:** The California Environmental Quality Act (CEQA) does not apply to the establishment of charges by the City Council if the City Council finds that the charges are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits. (Public Resources Code §21080(b)(8)).

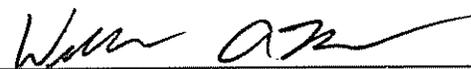
**Financial Considerations:** The rationale for the \$150 fee to file an appeal with one of the three Specialty Boards is that each board member receives a stipend of \$50 per meeting and each board consists of a minimum of three members. In the interests of open government and not setting fees at a level that would inhibit appeals, it is not recommended that staff costs be recovered at this time. Furthermore, staff is of the opinion that the exchange of alternative ideas and concepts would benefit both staff and applicants.

At this juncture, it is unknown how many appeals may occur as the Specialty Code Advisory and Appeals Board is new. However, a large volume of appeals are not expected, therefore it should not create a significant impact on staff's time or resources. In the event that a larger number of appeals are filed, staff would revisit the issue with Council at that time.

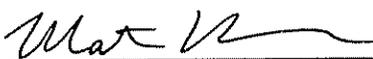
The fee to appeal a decision of one of the specialty boards to the City Council is proposed to be \$550 as this would minimally recover staff costs to process the necessary paperwork for a public hearing to the City Council as specified in the applicable ordinances. The Development Services Department has an established hourly rate of \$113 per hour and it is estimated to take 5 hours of Development Services staff time to process a City Council report of this nature for a total of approximately \$550.

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

Respectfully Submitted by:   
Robert L. Chase, AIA  
Chief Building Official

Approved by:   
William A. Thomas  
Director of Development Services

Recommendation Approved:

  
Ray Kerridge  
City Manager

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**RESOLUTION NO.**

Adopted by the Sacramento City Council

**ESTABLISHING APPEAL FEES FOR THE SPECIALTY  
CODE ADVISORY AND APPEALS BOARD**

**BACKGROUND**

- A. The California Uniform Building Code requires that municipalities have in place an administrative appeal process for disputes regarding proposed alternate construction designs, methods, or materials, or the application or interpretation of building codes and regulations.
- B. The creation of the three Specialty Code Advisory and Appeal Boards, as set forth in City Code Chapters 2.48, 2.49, and 2.50, satisfies the requirement of providing an administrative appeals process and was presented to, and approved by, the Development Oversight Commission on September 25, 2005, the Law & Legislation Committee on June 8, 2006, and the City Council on July 18, 2006.
- C. Each member of the three Specialty Code Advisory and Appeals Boards receives a stipend of \$50 per meeting and each board consists of a minimum of three members, therefore, the cost to the City to conduct an appeal before the Specialty Code Advisory and Appeals Boards is at least \$150.
- D. The Development Services Department has an established hourly rate of \$113 per hour and it is estimated to take 5 hours of Development Services staff time to process a City Council report for an appeal to City Council from a decision of one of the three Specialty Code Advisory and Appeals Board, therefore, the cost to the City to conduct such an appeal is at least \$550.
- E. It is the existing practice of the City of Sacramento to assess fees for appeals of other decisions related to planning, design review, preservation, and zoning.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

Section 1. An appeal fee in the amount of \$150 is established for appeals to the Building and Fire Code Advisory and Appeals Board, the Electrical Code and Advisory Board, and the Mechanical and Plumbing Advisory and Appeals Board.

Section 2. An appeal fee in the amount of \$550 is established for appeals from the

Building and Fire Code Advisory and Appeals Board, the Electrical Code and Advisory Board, and the Mechanical and Plumbing Advisory and Appeals Board to the City Council.

Section 3. Based on the information presented to it and upon information in the public record, and in compliance with Public Resources Code section 21080(b)(8), the City Council finds that the appeal fees established in Sections 1 and 2 of this Resolution are for the purposes of meeting operating expenses, including employee wage rates and fringe benefits.

