



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: January 8, 2019

DEPARTMENT: OFFICE OF THE CITY ATTORNEY

FROM: CHRISTOPHER A. CALLIHAN, CITY ATTORNEY

TITLE: AN ORDINANCE AMENDING THE CRITERIA FOR
ELIGIBILITY TO SERVE ON THE BOARD OF APPEALS

RECOMMENDATION MOTION:

A motion to adopt an ordinance amending Section 3-03.05 of the Municipal Code to change the eligibility criteria for membership on the Building Board of Appeals.

RECOMMENDATION:

It is recommended that the City Council adopt the proposed ordinance.

EXECUTIVE SUMMARY:

The proposed ordinance amends Section 3-03.05 of the Municipal Code to change the eligibility criteria for membership on the Building Board of Appeals. Currently, in order to be eligible for appointment to the Board of Appeals, an individual must be a resident of Salinas or own and operate a business located within Salinas at the time of appointment and continuously during the term of office. This ordinance would allow individuals who do not own and operate a business, but who do business within Salinas (pursuant to a Business License) to be eligible for appointment to the Board of Appeals. No individuals have been qualified to serve or appointed to the Board of Appeals. Changing the qualification criteria is intended to broaden the scope of potential candidates, without diminishing the overall expertise criteria, in an attempt to identify qualified, interested individuals so the City Council may appoint a Board of Appeals.

DISCUSSION:

This item has been sponsored by Council member McShane and former Council member Craig.

The Board of Appeals hears and decides appeals of orders, decisions, or determinations made by the Building Official and the Fire Code Official relative to the application and the interpretation of the Building Code and the Fire Codes (at the request of the Fire Chief). An application for an appeal is based on a claim that the true intent of Chapter 9 of the Municipal Code (where the Building Code and related codes have been codified by reference) has been incorrectly interpreted,

do not fully apply, or an equivalent form of construction is proposed. In other words, it provides an avenue for an individual to appeal the decision of the Building Official as it pertains to the application of the Building Code to a project. The Board of Appeals does not have the authority to waive or to reduce the requirements of Chapter 9 and has no authority or jurisdiction over any matter that is appealable under the Salinas Municipal Code to the City Council or to any board or commission. Appeals are only of Building Official decisions as they relate to application of the Building Code and related codes.

The Board of Appeals consists of five (5) standing members selected from the city at large and approved by the City Council. Two alternate members are also appointed and subject to the same appointment criteria as the standing members. All serve five (5) year terms unless removed sooner by the City Council.

When the Board of Appeals considers appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of building standards for accessibility, the appeals board shall consist of two standing or alternate members and three adjunct members. Two adjunct members shall be physically disabled persons and one will be a public member, who will be appointed by the City Council.

CEQA CONSIDERATION:

The action of adopting the proposed ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Guidelines section 15061(b)(3). This exemption is allowed when the activity, in this case the recommendation of adoption of the ordinance, does not have the potential for causing a significant effect on the environment.

STRATEGIC PLAN INITIATIVE:

The City Council's adoption of the proposed ordinance supports the City Council's goals and objectives of improving the Quality of Life for all of its residents and promoting a Safe and Livable Community (2016-2019 Strategic Plan).

FISCAL AND SUSTAINABILITY IMPACT:

The City Council's adoption of the proposed ordinance would not have an impact on the City's General Fund, Measure E, or Measure G.

DEPARTMENTAL COORDINATION

Implementation and enforcement of the proposed ordinance will require coordination among several City departments/divisions within Community Development (Planning, Building, and Code Enforcement).

ATTACHMENTS:

Proposed Ordinance

ORDINANCE NO. _____ (N.C.S.)

**AN ORDINANCE ESTABLISHING THE CRITERIA FOR MEMBERSHIP ON THE
BOARD OF APPEALS**

City Attorney Impartial Analysis

This ordinance changes the criteria for eligibility to the Board of Appeals. The Board of Appeals hears and decides appeals of orders, decisions, or determinations made by the Building Official and the Fire Code Official relative to the application and the interpretation of Chapter 9 of the Municipal Code. Currently, in order to be eligible for appointment to the Board of Appeals, an individual must be a resident of Salinas or own and operate a business located within Salinas at the time of appointment and continuously during the term of office. This ordinance would allow individuals who do not own and operate a business in Salinas but who do business within Salinas (pursuant to a Business License) to be eligible for appointment to the Board of Appeals.

SECTION 1. Section 3-03.05 of the Salinas Municipal Code is amended to read as follows:

“The appeals board shall consist of five standing members selected from the city at-large who are residents of Salinas, own a business located in Salinas, or have a business license to conduct business in the Salinas at the time of appointment and continuously during the term of office. The members must be qualified by experience and training and specifically knowledgeable in the California Building Standards Code and applicable local ordinances to pass on matters pertaining to building standards other than those related to accessibility and who are not employees of the City of Salinas.”

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause, and phase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. Effective Date. This Ordinance will take effect thirty (30) days from and after its adoption.

PASSED AND ADOPTED this _____ day of January 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney