City of Hesperia
STAFF REPORT

DATE: August 20, 2019

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager **SECOND READING AND ADOPTION**

BY: Michael Blay, Assistant City Manager
Tina Bulgarelli, Administrative Analyst

SUBJECT: Adoption of Ordinance No. 2019-09 related to the formation of a local and housing appeals board

RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2019-09 repealing Ordinance 2018-05 and modifying Title 1 of the Hesperia Municipal Code related to the Local Appeals Board and Housing Appeals Board.

BACKGROUND

The California Building Code Section 1.8.8 requires the formation of a Local Appeals Board and a Housing Appeals Board to hear contest hearings related to orders, decisions, and determinations made by the City of Hesperia relative to the application and interpretation of the building code, and other regulations governing construction, use, maintenance, and change of occupancy relative to administrative citations and notices of public nuisance.

ISSUES/ANALYSIS

The Building and Safety Department and Code Enforcement are responsible for enforcing the Municipal Code, and by extension, the California Building Code. At times, the enforcement measures taken to abate violations related to sub-standard housing, illegal or unpermitted construction, or occupancy lead to the issuance of a Notice of Public Nuisance or Administrative Citation. Persons issued these notices have the right to appeal the notice and any fines or fees associated with it.

Administrative hearings afford the person the right to tell their version of events, present evidence contrary to the City showing the violation was not occurring at the time the notice was written, or provide evidence that the interpretation of the Code by the City is incorrect.

The California Building Code mandates a body of persons, known as a Local Appeals Board shall hear contest hearings that are related to notices issued for violations or questions of interpretation related to building construction, building code application, use, maintenance, or occupancy of buildings. The code also mandates that there shall be a Housing Appeals Board to hear matters related to alterations, repairs, demolition, and moving of buildings and structures.

The Local Appeals Board and the Housing Appeals Board can be the same body. In absence of a local and housing appeals board, the City Council must hear contest hearings related to these items.

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Staff recommends adopting Ordinance No. 2019-09 repealing Ordinance No. 2018-05. Upon this action, the Planning Commission shall serve as the Housing Appeals Board and the Local Appeals Board.

The Planning Commission currently hears matters related to land use entitlement, including zoning, building projects and matters related to the development code. This body meets regularly at least once a month. Staff believes that assigning the Planning Commission to serve as the Local and Housing Appeals Board(s) will provide an efficient way to schedule hearings, as necessary. The Planning Commission is qualified to hear such matters as they already hear matters related to code interpretation, and land use entitlement.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ALTERNATIVE(S)

1. Repeal Ordinance No. 2018-05, and do not adopt Ordinance No. 2019-09, by default appointing the City Council as the Local and Housing Appeals Board(s).
2. Take no action, leaving Ordinance No. 2018-05 intact, keeping the City Council Advisory Committee as the Local and Housing Appeals Board(s).
3. Amend Ordinance No. 2019-09, assigning the responsibility of the Local and Housing Appeals Board(s) to the Public Safety Committee.
4. Provide alternative direction to staff.

ATTACHMENT(S)

1. Ordinance No. 2019-09
2. Exhibit A – Chapter 1.12-Amended-Track Changes Copy
3. Exhibit B- Chapter 1.12-Amended-Clean Copy