

ORDINANCE NO. 2019-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, REPEALING ORDINANCE 2018-05, AMENDING CHAPTER 1.04 AND 1.12 OF THE HESPERIA MUNICIPAL CODE, MODIFYING THE LOCAL APPEALS BOARD AND HOUSING APPEALS BOARD RELATED TO CONTEST HEARINGS.

WHEREAS, the City of Hesperia has the authority and responsibility to regulate building construction to protect the public health, safety, and welfare; and

WHEREAS, Title 15, Chapters 15.04 and 15.06 of the Hesperia Municipal Code were adopted for that purpose, and contain such building regulations and grading regulations for the City of Hesperia; and

WHEREAS, Title 1, Chapter 1.12 of the Hesperia Municipal Code contains language pertaining to the issuance of administrative citations, public nuisance notices, and contest hearings; and

WHEREAS, the California Government Code, Section 50022.2 authorizes cities to adopt the California Building Code (CBC) by reference; and

WHEREAS, Section 1.8.8.1 of the CBC requires a local agency to establish a process to hear and decide appeals of orders, decisions, and determinations made by enforcing agencies of the City of Hesperia relative to the application and interpretation of the California Building Code and other regulations governing construction, use, maintenance, and change of occupancy; and

WHEREAS, Section 1.8.8.1 of the CBC requires members of the appeals boards shall not be employees of the enforcing agency and shall be knowledgeable in the applicable building codes, regulations and ordinances; and

WHEREAS, upon rescinding Ordinance 2018-05, no appeals boards shall exist in the City; and

WHEREAS, the Planning Commission is a board of citizens, who have knowledge of the applicable building codes, ordinances and regulations, and are not employees of the City of Hesperia; and

WHEREAS, the Planning Commission meets on a regular basis and can serve as the Local Appeals Board and the Housing Appeals Board; and

WHEREAS, Section 1.8.8.3 of the CBC authorizes any person, firm or corporation adversely affected by a decision, order or determination by the City of Hesperia relating to the application of building standards published in the CBC, or any other applicable rule or regulation adopted by the Department of Housing and Community Development, or any lawfully enacted ordinance of the City of Hesperia, may appeal the issue for resolution to the Local Appeals Board or Housing Appeals Board, as appropriate.

WHEREAS, the City Council wishes to establish good and sufficient procedural due process for the confirmation of administrative fines, enforcement, and/or abatement costs, and for appeals by any affected party; and

WHEREAS, the Planning Commission shall be appointed to serve as the Local Appeals Board and the Housing Appeals Board; and

WHEREAS, on August 20, 2019 the City Council of the City of Hesperia conducted a duly noticed Public Hearing as required by Government Code Section 50022.3 and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW THEREFORE, THE HESPERIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. All of the facts set forth in the forgoing recitals are true, correct and are adopted as findings.

Section 2. Ordinance No. 2018-05 is hereby repealed, and the Planning Commission shall serve as the Local Appeals Board and Housing Appeals Board.

Section 2. Title 1, Chapter 1.04 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "B", attached hereto.

Section 3. Title 1, Chapter 1.12 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "B", attached hereto.

Section 7. This Ordinance shall take effect on September 20, 2019.

Section 8. The City Council of the City of Hesperia hereby declares that should any provision, section, paragraph, sentence, or word of this Ordinance hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words shall remain in full force and effect.

Section 12. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution 93-78.

ADOPTED AND APPROVED this 20th day of August, 2019

Larry Bird, Mayor

ATTEST

Melinda Sayre, City Clerk