

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: September 12, 2024

PREPARED BY: Richard D. Cannone, AICP, Development Services Director

SUBJECT: STUDY SESSION: PROPOSED TEXT AMENDMENT TO PALM DESERT
MUNICIPAL CODE CHAPTER 2.18 BUILDING BOARD OF APPEALS

RECOMMENDATION:

Provide feedback on proposed text amendments to the Palm Desert Municipal Code Chapter 2.18, Building Board of Appeals.

BACKGROUND/ANALYSIS:

A recent appeal of the Building Official's application of the Building Code related to emergency egress to the Building Board of Appeals, and subsequent appeal of the Building Board of Appeal's decision to City Council, uncovered an inconsistency regarding what can be appealed. The Building Board of Appeals, is the body that hears appeals on decisions made by the Building Official; however, it does not include language prohibiting an appeal of a ministerial action or an action that does not involve the exercise of administrative discretion or personal judgment, as is the case with appeals that go directly to City Council.

To resolve this inconsistency and provide a general clean-up of PDMC Chapter 2.18, staff proposes the following amendments:

1. **Clarify Appeal Procedures:** The strict enforcement of a building code standard by the Building Official would no longer be appealable, because it does not include any discretion or personal judgement and would align the procedures with appeals that go directly to City Council.
2. **Board Membership Requirement:** Require that members possess a thorough understanding of the California Building Code and related city regulations and ordinances.
3. **Clarify Decision Authority:** Include a new section to clarify the following:
 - a. The Building Board of Appeals has no authority to waive requirements of any code, which is consistent with California Building Code Section 113.2.
 - b. The Building Board of Appeals shall either approve, approve with modifications, or deny the appeal, and shall specify any conditions or limitations imposed.
 - c. The decision of the Building Board of Appeals shall be final, and a written decision shall be sent to the appellant informing them that they may file an appeal with the California Building Standards Commission (CBSC) pursuant to California Administrative Code Section 1-303(a). This appeal procedure allows an individual to file an appeal directly to CBSC, and not in conjunction with the City. The CBSC is not obligated to act on or consider the appeal and may choose to either review or reject it.

Given the technical nature of the California Building Code, the intent of the proposed amendment is two-fold, it establishes a realistic expectation of what can be appealed and streamlines the

appeal process so that should an individual wish to appeal the Building Board of Appeals, the matter can be directly appealed to the CBSC. If the appeal of the Building Board is heard by City Council, a ruling in favor of the appellant would most likely require consideration by CBSC before the action is final.

Legal Review:

This report has been reviewed by the City Attorney's office.

FINANCIAL IMPACT:

There is no financial impact related to this item.

ATTACHMENT:

1. Presentation