

RESOLUTION NO. P-17-25

RESOLUTION OF THE PLANNING COMMISSION APPROVING THE BOARD OF APPEALS POLICY TO ENSURE IMPARTIALITY, TRANSPARENCY, AND CONSISTENCY IN THE REVIEW OF APPEALS HEARD BY THE PLANNING COMMISSION SITTING AS THE BOARD OF APPEALS FOR BUILDING STANDARDS WITHIN TITLE 15 CITY OF FOSTER CITY PLANNING COMMISSION

WHEREAS, the California Building Code (CBC) Section 1.8.8 mandates that every city, county, or city and county shall establish a process to hear and decide appeals of orders, decisions and determinations made by the enforcing agency relative to the application and interpretation of this code and other regulations governing construction, use, maintenance and change of occupancy; and

WHEREAS, the California Building Code requires local jurisdictions to establish a process to hear and decide appeals of orders, decisions and determinations made by the enforcing agency relating to the application and interpretation of this code and other regulations governing construction, use, maintenance and change of occupancy and further notes that members of the appeals board(s) shall not be employees of the enforcing agency and shall be knowledgeable in the applicable building codes, regulations and ordinances as determined by the governing body of the city, county, or city and county; and

WHEREAS, where no such appeals boards or agencies have been established, the governing body of the city, county, or city and county shall serve as the local appeals board or housing appeals board as specified in California Health and Safety Code §§ 17920.5 and 17920.6; and

WHEREAS, the requirements for a Board of Appeals can be found across different sections of the Building Standards Code, including the CBC, Residential Code, Existing Building Code, Mechanical Code, Plumbing Code, and Electrical Code within Title 15 of the Foster City Municipal Code; and

WHEREAS, the Planning Commission is already designated for certain aspects of building construction as the appeal body for Chapters 15.45 and 15.46; and

WHEREAS, to comply with CBC requirements, the City Council adopted Ordinances 693 and 694 designating the duties of the Board of Appeals to the Planning Commission; and directed staff to engage a neutral third party to assist with preparing reports when an appeal is presented before the Planning Commission; and

WHEREAS, per Council's direction, staff has prepared the Board of Appeals policy attached as Exhibit A to the Resolution; and

WHEREAS, on December 4, 2025, staff presented the Board of Appeals policy to the Planning Commission.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Foster City does hereby adopt the attached policy, Board of Appeals Policy, contained in the attached Exhibit A attached hereto and incorporated herein, to ensure impartiality, transparency, and consistency in the review of the appeals heard by the Planning Commission sitting as the Board of Appeals for appeals of Building Standards within Title 15.

PASSED AND ADOPTED as a Resolution of the Planning Commission of the City of Foster City at a Regular Meeting thereof held on December 4, 2025, by the following vote:

AYES, COMMISSIONERS: Haddad, Jagtiani, Kenkre, Stoveland, and Chair Pedro

ABSTAIN, COMMISSIONERS:

ABSENT, COMMISSIONERS:

Robert A. Pedro

Robert A. Pedro (Dec 9, 2025 12:33:12 PST)

ROBERT PEDRO, CHAIR

ATTEST:

Sofia Mangalam

SOFIA MANGALAM, SECRETARY

EXHIBIT A



BOARD OF APPEALS POLICY

Purpose: The purpose of this policy is to ensure impartiality, transparency, and consistency in the review of appeals heard by the Planning Commission sitting as the Board of Appeals.

Background:

California Building Code (CBC) Section 1.8.8, within Part 1, Ch. 1 of Title 24 of the California Code of Regulations mandates that every city, county, or city and county shall establish a process to hear and decide appeals of orders, decisions, and determinations made by the enforcing agency relative to the application and interpretation of the CBC and other regulations governing construction, use, maintenance, and change of occupancy. It requires local jurisdictions to establish a process to hear and decide appeals of orders, decisions, and determinations made by the enforcing agency relating to the application and interpretation of the CBC and other regulations governing construction, use, maintenance, and change of occupancy. It further notes that members of the appeals board(s) shall not be employees of the enforcing agency and shall be knowledgeable in the applicable building codes, regulations, and ordinances as determined by the governing body of the city, county, or city and county.

The requirements for a Board of Appeals can be found across different sections of the Building Standards Code, including the CBC, Residential Code, Existing Building Code, Mechanical Code, Plumbing Code, and Electrical Code within Title 15 of the Foster City Municipal Code. These Codes all outline the process for appealing decisions made by Building Officials related to the interpretation and application of the various building standards.

To comply with CBC requirements, on September 15, 2025, the City Council adopted Ordinance 694 designating the duties of the Board of Appeals to the Planning Commission and directed staff to engage a neutral third party to assist when an appeal is presented before the Planning Commission.

This policy outlines the process for engaging a neutral third party to assist the Planning Commission, as necessary, in considering evidence or proof submitted by the appellants in their role as the Board of Appeals.

Policy Statement:

The City will retain a qualified, neutral third-party consultant/consulting firm to review the application materials and appeal, conduct analysis and any investigation or tests deemed necessary by the Planning Commission and assist the Planning Commission in preparing written findings at the conclusion of the appeal hearing to transmit to the Appellant and Building Official. This consultant will maintain professional independence in their findings and recommendations.

1. Appeal

An appeal is a request for the Planning Commission to review decisions of the Building Official. Orders, decisions, or determinations of the Building Official regarding the suitability of alternate materials, methods of construction, and reasonable interpretation of the provisions of the Building Standards Code may be appealed.

2. Board of Appeals Application

The Building Division shall post all the relevant information regarding the appeals process on city's website, including the process for filing an appeal, the appeal fee, and other relevant information including application form (see attached draft application).

3. Consultant Selection

The City will maintain a list of pre-qualified consultants with relevant expertise in the California Building Code, Residential Code, Existing Building Code, Mechanical Code, Plumbing Code, and Electrical Code, and building construction.

4. Appeal Review Process

- Upon receiving an appeal, staff will contact the consultants from the pre-qualified list to determine their availability and then select a consultant based on qualifications and the absence of conflicts of interest. Costs associated with consultant services will be funded through the established appeal fee.
- Staff will manage the appeal timeline to allow adequate time for the consultant's review.
- Once a complete appeal is accepted for filing and all hearing materials required are completed, a hearing will be scheduled. The Appellant will be notified of the date, time, and place of the hearing by mail at least ten calendar days prior to the date of the hearing.
- The consultant shall prepare a report providing an analysis and the results of any investigation conducted by the consultant that shall be included in the Planning Commission's agenda and made available to the Appellant prior to the hearing.

5. Appeal Hearing Process

- The Planning Commission will conduct a public hearing at a regular or special meeting to consider the appeal and all relevant evidence.
- The consultant shall attend the Planning Commission appeal hearing (virtually or in person) to answer technical questions from the Planning Commission and present the report, if one was prepared, and/or any results of the research, analysis and any investigation conducted by the Consultant and make a recommendation to the Planning Commission.

- The order for an appeal hearing will be as follows, unless the Chair of the Planning Commission decides that a different order is appropriate or necessary:
 - Building Official's presentation
 - Appellant's presentation, which can include any agents of Appellant
 - Consultant's presentation.
- The Planning Commission may ask questions of staff, Appellant, or other persons providing input at the appropriate time in the hearing process.
- The Appellant shall have an opportunity for rebuttal at the conclusion of the presentations.
- Following the presentations and any public comments, the public hearing will be closed, and the Planning Commission shall begin deliberations. The Chair of the Planning Commission may re-open the public hearing, if necessary.
- At the conclusion of the deliberations, the Planning Commission can take action to uphold the appeal thereby modifying or overturning the previous decision or determination made by the Building Official, deny the appeal, or continue the hearing for further deliberation or information. The consultant may assist the Planning Commission in preparing written findings to transmit to the Appellant and Building Official.



City of Foster City

BOARD OF APPEALS APPLICATION FORM

Community Development Department/Building Division

NAME OF APPELLANT: _____ DATE: _____

ADDRESS: _____ PHONE: _____

NAME OF PROJECT: _____ BUILDING PERMIT # _____

PROPERTY ADDRESS OF PREMISES FOR WHICH APPEAL IS REQUESTED: _____

ASSESSOR'S PARCEL NUMBER: _____

Relationship of Appellant to property: _____

Description of any proposed building or structures, or alteration of existing buildings or structures located, or to be located on said premises (please attach sketches, map, or diagrams if necessary): _____

A brief statement in ordinary and concise language of the specific order or action appealed, or requested, together with any material facts claimed to support the contentions of the Appellant. (Use attachments or the reverse of this form, if necessary): _____

A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the decision of the Building Official should be reversed, or proposed request should be approved, modified, or otherwise set aside. (Use attachments or the reverse of this form, if necessary): _____

What is the proposed alternate material, method of construction or interpretation desired by the Appellant? _____

Why does Appellant feel the proposed alternate, interpretation, deviation, or substitution is justified? (Note: alternate materials and methods must be at least equal to what is prescribed in the code for safety, performance and protection of life and health. Reference Section 17951(e), Health & Safety Code.) _____

When was this decision that you are appealing to was made by the Building Official? _____

Has the Appellant for the alternate material/method of construction or interpretation, herein requested been denied within the past 30 days?

I, the undersigned, do hereby certify that the statements herein made are true and accurate to the best of my knowledge and belief.

APPELLANT

DATE