

ORDINANCE NO. 2025-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA AMENDING  
TITLE 2 OF THE MARINA MUNICIPAL CODE TO CREATE A BUILDING APPEALS  
BOARD.

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1. The Community Development Department (CDD) for the City of Marina (City), through its regular use and implementation of the Marina Municipal Code (MMC), discovered that the City has not established a board for hearing appeals of orders, decision, and determinations made by the building official, or his or her designee, regarding the application and interpretation of housing laws set forth in California Health and Safety Code, the Marina Municipal Code Title 15, and all decisions by the fire chief and/or fire marshal, or their designee, regarding the application and interpretation of the California Fire Code, Chapter 15.32.

2. Through this amendment, the City seeks to create a Building Appeals Board.

3. The proposed ordinance adds new Chapter 2.56 (Building Appeals Board) to MMC Title 2, Administration and Personnel, of the MMC (Ordinance).

4. The establishment of a Building Appeals Board is necessary for the preservation of the public peace, health, or safety, and without this action the City lacks a critical mechanism to enforce the California Building Code, including matters related to general building design, construction requirements relating to fire and life safety, and access compliance.

5. The City Council held a duly noticed public hearing on the Ordinance on June 3, 2025.

6. The Ordinance is not subject to environmental review pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 et seq., because the activity would not result in a direct or reasonably foreseeable indirect physical change in the environment and the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Because the proposed action merely updates the Municipal Code to create a board to hear building appeals, there is no possibility that the activity in question may have a significant effect on the environment. Therefore, the adoption of this Ordinance is exempt from CEQA, and no environmental review is necessary.

**NOW, THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY  
ORDAIN AS FOLLOWS:**

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The City Council of the City of Marina determined the proposed ordinance amendment is exempt from the California Environmental Quality Act pursuant to CEQA Guideline Section 15061(b)(3).

SECTION 3. The City Council hereby amends the MMC to add Chapter 2.56, as set forth in Exhibit 1.

SECTION 4. If any portion of this Ordinance is found to be unconstitutional or invalid the City Council hereby declares that it would have enacted the remainder of this Ordinance of the absence of any such invalid part.

SECTION 5. The City Manager is directed to execute all documents and to perform all other necessary acts to implement this Ordinance.

SECTION 6. This Ordinance shall be in full force and effect third (30) days after its final passage and adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on the 3<sup>rd</sup> day of June 2025, and was passed and adopted at a regular meeting duly held on the 24<sup>th</sup> day of June 2025, by the following vote:

AYES: COUNCIL MEMBERS: McAdams, McCarthy, Biala, Visscher, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ATTEST:

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Bruce C. Delgado, Mayor

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Anita Sharp, Deputy City Clerk

## **“Exhibit 1”**

### **Chapter 2.56**

#### **BUILDING APPEALS BOARD**

##### Sections:

Sec. 2.56.010 Creation and membership.

Sec. 2.56.020 Qualifications

Sec. 2.56.030 Powers and duties

Sec. 2.56.040 Limitations

Sec. 2.56.050 Meetings

Sec. 2.56.060 Appeal Procedures

Sec. 2.56.070 Waiver

Sec. 2.56.080 Conduct of the appeal hearing

Sec. 2.56.090 Statement of decision

Sec 2.56.100 Appeal of the statement of decision.

##### **2.56.010 Creation and membership.**

- (a) The “Building Appeals Board” is established and shall consist of five members appointed by the city council.
- (b) Members of the building appeals board need not be residents of Marina, but is preferred.
- (c) Members of the board must not be employees of the city of Marina.
- (d) A member shall recuse themselves from any items in which they have an interest in the subject property.

##### **2.56.020 Qualifications.**

Members of the board shall be persons who are qualified by experience, training or licensing to pass on matters pertaining to building construction. The city council shall endeavor to appoint persons who are knowledgeable in the construction or design of buildings and who are familiar with the content and application of the building standards code.

##### **2.56.030 Powers and duties.**

It shall be the function of the building appeals board to hear and decide appeals from orders, decisions or determinations made by the building official, or his or her designee, regarding the application and interpretation of housing laws set forth in California Health and Safety Code, the Marina Municipal Code Title 15—except Chapters 15.36, 15.48, 15.54, and 15.56—and all decisions by the fire chief and/or fire marshal, or their designee, regarding the application and interpretation of the California Fire Code, Chapter 15.32.

##### **2.56.040 Limitations.**

The board shall have no authority to waive requirements of the Marina Municipal Code.

## **2.56.050 Meetings.**

The board shall meet only as needed when an appeal is filed pursuant to this chapter.

## **2.56.060 Appeal Procedures.**

(a) An applicant for a post-entitlement phase permit (as defined in Cal. Health & Safety Code § 65913.3) may appeal a decision determining the permit to be incomplete, noncompliant or denied to the building appeals board. Any person, firm, or corporation adversely affected by any orders, decision, and determinations made by the building official, the fire chief or fire marshal, or their designees in interpreting, administering or enforcing any provision of title 15, or any rule or regulation adopted by the department of housing and community development, may appeal the order, decision and/or determination to the building appeals board.

(b) An application for appeal shall be in writing, state the grounds for the appeal, and be accompanied by a fee in the amount adopted within the Master Fee Schedule. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. Only matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(c) The application for appeal shall be filed in writing with the chief building official no later than ten calendar days after receipt of written notice of the determination. Failure to timely request an appeal constitutes a waiver of the right to a hearing before the building appeals board and a failure to exhaust administrative remedies.

(d) Within 30 calendar days of receiving an appeal, the chief building official shall schedule a hearing before the building appeals board. Appellant shall be given at least ten calendar days written notice of the date and time of the hearing. Notice of the hearing shall be served personally or by first-class mail addressed to the appellant at the address shown on the appeal and shall be deemed complete at the time notice is personally served or deposited in the mail.

## **Sec. 2.56.070 Waiver.**

Failure of the appellant to appear at the hearing after notice has been provided as stated in this article, shall be deemed a waiver of the hearing and an admission that the determination being appealed is correct. In the event of such failure to appear, the city may move forward with enforcement of the determination. Fees assessed for filing the appeal are nonrefundable in the event of a failure to appear.

## **Sec. 2.56.080 Conduct of the appeal hearing.**

(a) The board shall exercise its powers in such a manner that substantial justice is done most nearly in accord with the intent of and purpose of this code.

(b) Hearings shall be open to the public, shall record minutes of its proceeds and provide copies of the minutes for inspection as a public record.

(c) At the hearing, the parties shall be given an opportunity to be heard and have the right to call and examine witnesses on any matter relevant to the issues of the hearing, to introduce documentary and physical evidence, to cross-examine witnesses on any matter relevant to the issues of the hearing, and to be represented by any person who is lawfully permitted to so represent.

(d) Any relevant evidence shall be admitted if it is of the type of evidence that responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the formal rules of evidence. Oral evidence shall be taken only on oath or affirmation. Irrelevant and unduly repetitious evidence shall be excluded.

(e) The hearing may be continued if necessary.

#### **Sec. 2.56.090 Statement of decision.**

(a) The decision of the board shall be determined by the majority of the board. The board shall affirm, modify or set aside the determination that is appealed and shall prepare a written statement of decision. The statement of decision shall be based on the evidence received, shall be final and conclusive and shall contain a statement of decision relevant to the issues. The statement of decision shall set forth the time within which the parties shall carry out their obligations if applicable.

(b) The statement of decision shall be completed and mailed to the parties no later than 14 calendar days after close of the hearing and shall notify the appellant that superior court review shall be commenced no later than 90 calendar days after the board mails the statement of decision first class, postage prepaid, with a proof of service to the parties.

(c) The statement of decision shall be served in the same manner as the notice for the hearing. The secretary shall provide a copy of the report to the administrative office whose determination was appealed and shall maintain a copy in the board's records.

(d) The secretary shall compile the full record of the hearing under this article, including all exhibits and documents offered as evidence, whether or not admitted, and an audio recording of the proceeding.

#### **Sec. 2.56.100 Appeal of the statement of decision.**

Any appeal of the board's statement of decision must be filed with a court of competent jurisdiction pursuant to California code of civil procedure sections 1094.5 and 1094.6 within 90 calendar days of the service of the decision, otherwise all objections will have been waived. The filing of such appeal within such time limit shall stay the effective date of the decision of the board.