

ORDINANCE NO. 343

AN ORDINANCE OF THE CITY OF BANDERA, TEXAS, AMENDING CHAPTER 3 OF THE CITY'S CODE OF ORDINANCES PROVIDING LOCAL AMENDMENTS TO THE ADOPTED TECHNICAL CODES TO DESIGNATE THE CITY COUNCIL TO SERVE AS THE BOARD OF APPEALS; PROVIDING FOR A CUMULATIVE AND CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Council, by passage and approval of *Ordinance No. 315 on October 16, 2014*, adopted the then most current version of the International Building Code; and the International Plumbing Code; National Electric Code; Standard Amusement Device Code; Standard Existing Building Code; Standard Gas Code; International Mechanical Code (*adopted by Ordinance 198 on 12/9/99*); and International "One and Two Dwelling" Code (*adopted by Ordinance 245 on 2/17/05*), (collectively the "technical codes"); and

WHEREAS, the technical codes have been codified in Chapter 3, Building Regulations of the City's Code of Municipal Ordinances; and

WHEREAS, the International Building Code Appendix B (entitled "Appeals Board") establishes a Board for permit applicants to appeal decisions of the administrative or building official; and

WHEREAS, City staff recommends that City Council adopt a local amendment to the technical codes to appoint the City Council as the International Building Code Appeals Board; and

WHEREAS, City Council finds that the local amendment will have a positive impact on the affordability of housing and business development and be in the best interest of the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BANDERA, TEXAS, THAT:

SECTION I. AMENDMENT TO MUNICIPAL CODE OF ORDINANCES.

The City of Bandera's Code of Municipal Ordinances, Chapter 3 (entitled "Building Regulations") Article 3.02 (entitled "Technical and Construction Codes and Standards") Division 1 (entitled "Generally") is hereby amended as set forth in the attached Exhibit A.

SECTION II. FORM OF BOARD RESOLUTION.

The Resolution form to be used by the Board of Appeals in rendering its decisions is hereby adopted and is attached hereto as Exhibit B.

SECTION III. CUMULATIVE AND CONFLICTS.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Bandera, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in

which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

SECTION IV. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION V. EFFECTIVE DATE.

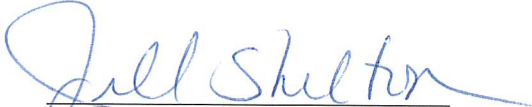
This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED, ADOPTED, APPROVED, AND EFFECTIVE THE 18TH DAY OF JANUARY, 2018.

CITY OF BANDERA, TEXAS


Suzanne Schauman, Mayor

ATTEST:


Jill Shelton, City Secretary

**EXHIBIT A
BOARD OF APPEALS**

CHAPTER 3, BUILDING REGULATIONS, ARTICLE 3.02 TECHNICAL AND CONSTRUCTION CODES AND STANDARDS, DIVISION 1, GENERALLY, IS HEREBY AMENDED AS FOLLOWS:

ADD:

Sec. 3.02.002 Local Amendments

(a) International Building Code Appendix B (entitled "Appeals Board") is amended to read as follows:

APPENDIX B – BOARD OF APPEALS

SECTION B101 GENERAL

B101.1 Application.

The application for appeal shall be filed on a form obtained from the building official within 20 days after the notice was served.

B101.2 Membership of board.

The members of the City Council shall serve as the Board of Appeals.

The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.

B101.2.1 Alternate members. This section is intentionally deleted.

B101.2.2 Qualifications. This section is intentionally deleted.

B101.2.3 Rules and procedures.

The board shall follow the same rules and procedures that is followed by the City Council in deciding appeals of administrative decisions as the Board of Adjustment under Chapter 211 of the Texas Local Government Code and is authorized to establish such other policies and procedures reasonably necessary to carry out its duties as the Board of Appeals.

B101.2.4 Chairperson.

The Mayor shall serve as the chairperson of the Board of Appeals.

B101.2.5 Disqualification of member.

A member shall not hear an appeal in which that member has a personal, professional or financial interest.

B101.2.6 Secretary.

The City Secretary or designee shall serve as secretary to the Board of Appeals. The secretary shall file a detailed record of all proceedings in the office of the City Secretary.

B101.2.7 Compensation of members.

Members shall receive no compensation for service on the Board of Appeals.

B101.3 Notice of meetings.

The Board of Appeals shall meet upon notice from the chairperson, within 10 days of the filing of an appeal or at stated periodic meetings. Notice of the meeting to the public must comply with the requirements of the Texas Open Meetings Act.

B101.3.1 Open hearing.

All hearings before the Board of Appeals shall be open to the public and the conduct of meetings must comply with the Texas Open Meetings Act. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.

B101.3.2 Procedure.

The Board of Appeals shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

B101.3.3 Postponed hearing.

When all members of the Board members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

B101.4 Board decision.

The concurring vote of 75% of the members of the Board is necessary to reverse and order, requirement, decision or determination of the building official.

B101.4.1 Resolution.

The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the building official. The form of the resolution shall be in substantial compliance with Exhibit "B" attached hereto.

B101.4.2 Administration.

The building official shall take immediate action in accordance with the decision of the board.

**EXHIBIT B
FORM OF RESOLUTION**

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF APPEALS OF THE CITY OF BANDERA TEXAS.

Whereas, Appendix B of the International Building Code provides for the establishment of a Board of Appeals, to hear appeals from building permit applicants unsatisfied with a decision of the City's Building Official;

Whereas, pursuant to Ordinance No. _____, the City Council has been designated to serve as the Board of Appeals.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF APPEALS OF THE CITY OF BANDERA, THAT:

Section one. On the _____ day of _____, 201__, the appellant submitted an appeal of the decision of the Building Official that was made on the _____ day of _____, 201__.

Section two. A copy of the appeal is attached hereto as **Exhibit "A"**, which is incorporated herein for all purposes.

Section three. After hearing argument for and against the merits of the appeal at least 3/4 of the members of the Board of Appeals:

_____ did find in favor of the appellant.

_____ failed to find in favor of the appellant.

Section four. The appeal is granted/denied.

Passed and approved this _____ day of _____, 201__.

CITY OF BANDERA BOARD OF APPEALS

PRINTED NAME, CHAIRMAN

ATTEST:

PRINTED NAME, BOARD SECRETARY