

ORDINANCE NO. 15-0016

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING THE MANHATTAN BEACH LOCAL COASTAL PROGRAM TO INCLUDE A COUNCIL REVIEW PROCEDURE FOR QUASI-JUDICIAL DECISIONS AND MODERNIZING CHAPTER A.96.160 (APPEALS)

THE MANHATTAN BEACH CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. CEQA Findings. This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that the amendments will not have the potential for any impacts on the environment. The Ordinance will amend the appeals process and provide a Council review of Planning Commission quasi-judicial decisions.

SECTION 2. On June 2, 2015, the City Council conducted a duly noticed public hearing to consider amendments to the Local Coastal Program (LCP) for Chapter A.96.160 (Appeals). After a duly noticed public hearing, the Planning Commission recommended the following changes to the LCP's appeal chapter: 1) amendments reflecting the City's practice and changes in the law; 2) amendments providing for City Council review of quasi-judicial proceedings; and 3) amendments streamlining the Code for ease of use.

SECTION 3. The City Council hereby amends Chapter A.96.160 (Appeals) of the Manhattan Beach LCP to read as follows, with all other provisions of Chapter A.96.160 to remain unchanged, with the exception that certain subsections will be re-numbered due to the revisions set forth in this Section 3:

“Chapter A.96.160 A.1-4 APPEALS AND COUNCIL REVIEW

Sections:

A.1 Appeals.

- a. Decisions of the Community Development Director may be appealed to the Planning Commission, and decisions of the Planning Commission may be appealed to the City Council. For notification purposes, the decisions of the Planning Commission will be placed on a City Council agenda within the time period specified below for Council review.
- b. Anyone wishing to appeal pursuant to this Chapter must timely file with the City Clerk a written notice of appeal, on a form provided by the Community Development Department, and with the applicable required appeal fee set by City Council resolution. The notice of appeal shall specify the basis for the appeal. ~~In addition, the appeal must indicate in what way the appellant contends the decision was incorrect, specifically identifying how the decision is not in accord with the provisions of the Municipal Code or the Local Coastal Program, or must provide extenuating circumstances that the appellant contends would justify reversal or modification of the decision.~~
- c. The appeal period ends at the close of the business day for City Hall on the ~~fifteenth- twentieth~~ day following the decision. If the ~~fifteenth- twentieth~~ day falls on a weekend or City holiday, the appeal period ends at the close of business on the next working day.
- d. The appeal shall be heard within 60 days of the City Clerk's receipt of the appeal, unless the applicant and appellant consent to a later date. An appeal

shall be heard at a public hearing *de novo* if the decision being appealed required a public hearing. Notice of such a public hearing shall be given in the same manner required for the decision being appealed.

- e. The effectiveness of a decision subject to appeal shall be stayed pending completion or withdrawal of the appeal.

- f. The Director of Community Development shall forward a Coastal Development Permit appeal, together with a recommendation, to the appropriate body specified in the paragraphs above for its action.

~~It shall be the duty of the Director of Community Development to forward a Coastal Development Permit appeal, together with recommendation thereof, to the appropriate body specified in the paragraphs above for its action.~~

A.2 Council Review.

- a. The City Council shall review a Planning Commission decision if ~~two~~ a Council members, ~~either individually or jointly,~~ files a Council review form with the City Clerk on or before the ~~fifteenth~~ twentieth day following the decision. For all requests for review, it shall be presumed that the reason for the request is that the decision may have significant and material effects on the quality of life within the City, or that the subject matter of the decision may have City-wide importance warranting review and determination by City's elected officials. Bias shall not be presumed or inferred due to a request for review.

The City Clerk shall prescribe a review form, which shall be available free of charge. The City Clerk shall schedule the review hearing for commencement within 60 days of the request for review. The review shall otherwise follow the same procedures as appeals in this Chapter.

- b. Public notice of the hearing shall be provided in the same manner, if any, as was provided in connection with the consideration by the Planning Commission.
- c. The Council review hearing shall be conducted as a hearing *de novo*. ~~The City Council shall apply the same decision criteria as the Planning Commission.~~
- d. The effectiveness of a decision subject to Council review shall be stayed pending completion of the Council review proceedings.

- e. The Director of Community Development shall forward a Coastal Development Permit, together with a recommendation, to the appropriate body specified in the paragraphs above for its action.

A.3 Decision.

The appellate or reviewing body may uphold, overturn, or modify the decision of the inferior body. Any such action shall be made by resolution and supported by findings. Alternatively, the appellate or reviewing body may remand the matter for further consideration by the inferior body. In the event of a tie vote by the Planning Commission, the decision of the Community Development Director is effective. In the event of a tie vote by the City Council, the decision of the Planning Commission is final.

A.4 Effective date.

A decision by the City Council regarding an appeal or Council review shall become final on the date of the decision unless appealed to the Coastal Commission in accordance with the provisions of this Chapter. A decision by the Planning Commission regarding an appeal shall become final on the date of the decision, unless appealed to the City Council, or called up for review pursuant to Section A.96.160 A.2.

A.5 Resubmittal.

In the event the Commission or City Council takes final action to deny an application or request, such application or request cannot be resubmitted within ~~two~~ one years, unless the denial is made without prejudice.”

SECTION 4. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5. The City Council hereby directs staff to submit this LCP amendment to the California Coastal Commission for certification, in conformance with the submittal requirements specified in the California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2. The LCP amendment approved in this ordinance shall become effective only upon certification by the California Coastal Commission.

SECTION 6. Any provisions of the Manhattan Beach LCP, or appendices thereto, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed, and the City Clerk shall make any necessary changes to the LCP for internal consistency.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

PASSED, APPROVED AND ADOPTED June 16, 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

WAYNE POWELL

Mayor of the City of Manhattan Beach

ATTEST:

LIZA TAMURA

City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney