

ORDINANCE NO. 17-0011

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

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 July 5, 2017, 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 informational purposes, the decisions of the Planning Commission will be placed on a City Council agenda within the time period specified below.

- b. Anyone wishing to appeal pursuant to this chapter must timely file with the Community Development Department 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.
- c. The appeal period ends at the close of the business day for City Hall on the 15th following the decision. If the 15th 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 decision subject to appeal shall be stayed pending a final decision on the appeal or withdrawal of the appeal.

A.2 Council Review.

- a. The City Council shall review a Planning Commission decision if two Councilmembers file a Council review form with the City Clerk on or before the 15th 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*.
- d. The effectiveness of a decision subject to Council review shall be stayed pending completion of the Council review proceedings."

SECTION 4. The City Council hereby amends Subsection B of Chapter A.96.240 of the Manhattan Beach LCP to read as follows:

“B. The coastal development permit shall be issued only after providing such documents to the Executive Director of the Coastal Commission and the Executive Director has notified the Community Development Director that any such legal documents are adequate. [13574]”

SECTION 5. 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 6. 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 7. 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 8. Ordinance No. 15-0016 is hereby repealed and will have no force and effect upon the effective date of this Ordinance No. 17-0011.

SECTION 9. 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.

ADOPTED ON _____, 2017

AYES:

NOES:

ABSENT:

ABSTAIN:

DAVID LESSER
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney