

Lompoc City Council Agenda Item

City Council Meeting Date: July 5, 2010

TO: Laurel M. Barcelona, City Administrator

FROM: Lucille T. Breese, AICP, Planning Manager
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SUBJECT: City Council consideration of a Planning Commission recommendation for a Text Amendment to the City's Zoning Ordinance to amend *Section 1.32.010* of the Municipal Code and to establish *Chapter 17.006 Appeal Procedures* in the Zoning Ordinance. The establishment of a new appeal procedures section will require amendment to multiple Zoning Ordinance sections. The proposed text amendments would consolidate multiple appeal references throughout the Zoning Ordinance for the purpose of simplifying the appeal process. If adopted, the Ordinance will be effective Citywide. A Negative Declaration has been prepared for this project in accordance with the California Environmental Quality Act (CEQA). (Planning Division File No. TA 11-03)

Continued from June 21, 2011 City Council Meeting

RECOMMENDATION:

1. Receive and review the Planning Commission recommendation;
2. Hold the public hearing;
3. Adopt the Negative Declaration prepared for the Text Amendment and direct staff to file a Notice of Determination (NOD); and
4. Waive further reading and introduce Ordinance No. 1569 (11) approving Text Amendment TA 11-03 amending the City's Zoning Ordinance *Section 1.32.010* of the Municipal Code and to establish *Chapter 17.006 Appeal Procedures* in the Zoning Ordinance.

DISCUSSION:

The public hearing for the Text Amendment to revise *Section 1.32.010* of the Lompoc Municipal Code ("LMC") and to establish *Chapter 17.006 Appeal Procedures* in the LMC was held on June 21, 2011. At the close of the public hearing, based on comments from the Council and the public, staff was directed to work with the City Attorney and return with a revision to Ordinance 1569 (11) making the first paragraph of Section

1.32.010 more “user friendly”. The section has been re-written as shown below, the old version is shown with “strikeout”:

Section 1.32.010 General Appeals Provision

A. *Except when an appeal procedure is specifically provided or denied by any other rule, regulation or policy of the City or provision of this Code, any person who objects to:*

(i) the denial, suspension, or revocation of a permit applied for or held by that person, pursuant to any of the provisions of this Code, or

(ii) any administrative determination made by any official of the City, pursuant to this Code or any other rule, regulation or policy of the City

may appeal, in writing, to the City Council, by filing a written notice of appeal in a form provided by the City, but only if that denial, suspension, revocation or determination involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code or any other rule, regulation or policy of the City.

~~A. 1. Except where appeal procedures are otherwise specifically set forth or denied by any rule, regulation, or policy of the City, any person excepting to the denial, suspension, or revocation of a permit applied for or held by him or her pursuant to any of the provisions of this Code, or to any administrative decision made by any official of the City, if the denial, suspension, or revocation of such permit or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, may appeal in writing to the City Council by filing a written notice of appeal.~~

B. *The appeal process provided herein shall not apply to:*

(i) any civil or criminal procedure initiated in a court of competent jurisdiction to enforce any provision of this Code, nor

(ii) any determination whether or not to hire an employee or engage or approve a contract.

C. *No rule, regulation, or policy shall deny the right to an appeal, if the subject of the appeal involves a vested right.*

~~2. No right to appeal to the Council from any administrative decision made by an official of the City pursuant to any of the provisions of any rule, regulation, or policy of the City shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment exercised~~

~~pursuant to any of such provisions, whether the administrative decision involves the denial, suspension, or revocation of permit or any other administrative decision. The appeal process provided herein shall not apply to any procedure, civil or criminal, initiated in a court of competent jurisdiction to enforce any provision of this Code. This appeal process shall not apply to determinations on whether or not to hire an employee. No rule, regulation, or policy shall deny the right to an appeal if the subject of the appeal involves a vested right.~~

- D. Any appeal made pursuant to this section must be filed with the City Clerk within ten (10) **business** days after the effective date of the subject denial, suspension, revocation or determination, accompanied by the appeal fee established by the City Council.*
- ~~E. The appellant shall file a notice of appeal on the City appeal form with the City Clerk within 10 calendar days after the date of the decision, accompanied by the appeal fee established by the City Council.~~
- F. Upon the filing of the notice of appeal in the proper form and payment of the applicable fee, the City Clerk shall place the matter on the next available Council agenda for a public hearing, noticed as provided in California Government Code Section 65090 or 65091. The division responsible for the subject denial, suspension, revocation or determination shall prepare a staff report transmitting the appeal. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than ten (10) days prior to such hearing, unless such notice is waived in writing by the appellant.*
- ~~C. Upon the filing of the notice of appeal in proper form, the City Clerk shall place the matter on the next available Council agenda for a public hearing noticed as provided in California Government Code Section 65090 or 65091. The division responsible for the decision which is the subject of the appeal shall prepare a staff report transmitting the appeal. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than ten days prior to such hearing, unless such notice is waived in writing by the appellant.~~
- G. At the hearing required by Subsection E of this Section, the City Council may consider any issue under this Code, in addition to the specific issues raised in the appeal. The City Council shall affirm, reverse, or modify the subject denial, suspension, revocation or determination, following the noticed public.*
- ~~D. At the hearing required by Subsection C of this Section, the City Council may consider any issue under this Code, in addition to the specific issues raised in the appeal. The City Council shall affirm, reverse, or modify the decision which is the subject of the appeal following the noticed public.~~

June 21, 2011

Section 17.006.030 A Appeals to City Council has been corrected to reflect “business days”. The three (3) references to time allowed for an appeal to be filed are in *Section 1.32.00 General Appeals Provision D*, *Section 27.006.020 A Appeals to Planning Commission*, and *Section 17.006.030 A Appeal to City Council* In Attachment 1.

Attachments:

1. [Draft Ordinance No. 1569 \(11\)](#)
2. [Initial Study and Negative Declaration](#)

Lucille T. Breese, AICP, Planning Manager

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Laurel M. Barcelona, City Administrator