

Ordinance No. 1673(20)

**An Ordinance of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Various Provisions in the Lompoc Municipal Code Related to
Appeal Procedures and Other Miscellaneous Items**

WHEREAS, the Lompoc Municipal Code includes procedures for the appeal of various decisions made by City administrators, commissions, and boards; and

WHEREAS, those appeal procedures often vary from one another with respect to, among other things, whether a notice of the right to appeal must be provided, the amount of time afforded to file an appeal, and the amount of time before an appeal will be heard; and

WHEREAS, the City Council desires to amend the Lompoc Municipal Code to increase the uniformity of the City's appeal procedures to ensure that members of the public are informed of their right to an appeal, and to normalize the timelines for filing and hearing appeals.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 1.32 of the Lompoc Municipal Code is hereby deleted and replaced with the following:

Chapter 1.32 APPEALS PROCEDURE

1.32.010 Definitions.

- A. As used in this Chapter, "appeal" means the formal reconsideration of a decision made by the City, and includes, but is not limited to, administrative reviews and requests for reconsideration.
- B. As used in this Chapter, "person" means an individual, business, organization, or other legal entity.

1.32.020 Notice of Right to Appeal.

Any decision made by the City that may be appealed under this code shall be in writing, shall give notice of the right to appeal, and shall clearly state the procedures and timelines for filing an appeal.

1.32.030 Fee for Appeal.

Any person that files an appeal to any City employee, hearing officer, commission, or board, including the City Council, under this code, shall pay an appeal fee in the amount established by the City Council. For any appeal that is successful, or successful in part, the City shall reimburse the appeal fee to the appellant.

1.32.040 Notice of Appeal.

Any person wishing to file an appeal under this code must file a written notice of appeal with the City Clerk, or such other person as may be explicitly designated by this code. The notice of appeal shall state the decision or action that is being appealed and all grounds for the appeal, and shall include all documentation and other information necessary for evaluating the merits of the appeal. The appeal may be filed in person, by mail, or by email. The date of filing shall be the date the notice of appeal is received by the City.

1.32.050 Timeline for Filing Appeal.

- A. Unless a provision of this code explicitly states otherwise, or state law provides otherwise, a notice of appeal filed under this code shall be filed no later than 20 business days following the effective date of the decision that is being appealed. An appeal filed later than 20 business days following the effective date of the decision that is being appealed shall not be considered.
- B. The effective date of the decision shall be the first to occur of the following:
1. If the decision was made at a hearing, and the person affected by the decision was given notice of the hearing (whether or not it was actually received by such person, and whether or not the person appeared at the hearing), then the effective date of the decision is the date of the hearing at which the decision was made.
 2. If the person affected by the decision was personally served with notice of the decision, then the effective date of the decision is the date of personal service.
 3. If the person affected by the decision was served with the decision by mail at their last known address, or by email to an email address provided to the City by the person, then the effective date of the decision is the date of mailing or emailing.
 4. If the person affected by the decision was served with the decision by posting the decision on real property in which the person affected has a legal interest, then the effective date of the decision is the date of posting.
 5. If the person affected by the decision was served with the decision by publication in a newspaper, then the effective date of the decision is the final date of publication.

1.32.060 Hearing; Notice of Hearing.

Unless otherwise provided in this code, the following procedures shall apply to any appeal for which an appeal hearing is required by this code:

- A. Upon the filing of the notice of appeal in proper form and the payment of any required fee, the City Clerk, or such other person as may be explicitly designated by this code, shall set a date for the hearing. The date of the hearing shall be set in accordance with any timeline explicitly provided in this code or in state law, or else as soon as reasonably possible.
- B. The City Clerk, or such other person as may be explicitly designated by this code, shall cause a written notice of the hearing to be given to the appellant either in person or by mail to the appellant's last known address, not less than ten calendar days prior to the hearing, unless such notice is waived in writing by the appellant, or a different timeline is explicitly provided in this code or in state law. The effective date of the notice of hearing is the day notice is personally delivered to the appellant or a properly addressed notice is placed in the mail, unless otherwise provided in state law. The notice of hearing does not need to comply with Government Code Section 65090 or 65091 unless explicitly required by this code or state law.
- C. As necessary, the department responsible for the decision which is the subject of the appeal shall prepare a staff report transmitting the appeal to the hearing officer or hearing body.
- D. Formal rules of evidence shall not apply to any hearing on an appeal.

1.32.070 Standard of Review; Written Notice of Decision on Appeal.

- A. The hearing officer, hearing body, or other person or body deciding the appeal shall hear each appeal de novo and may affirm, reverse, or modify the decision that is subject to the appeal.
- B. A written notice of the decision on appeal shall be personally served, mailed, or emailed (to an email address provided by the appellant) to the appellant not more than ten calendar days after the decision on appeal, or in accordance with any different timeline explicitly provided in this code or in state law.

1.32.080 Exhaustion of Remedies.

No person may file an appeal until such person has exhausted all other available remedies including filing an appeal with any subordinate City officer, board, commission, or other body. Upon the expiration of any deadline for filing an appeal, a decision made by the City shall become final and shall no longer be appealable.

1.32.090 Appeals Under Title 17.

Notwithstanding any provision of this chapter, appeals filed pursuant to Title 17 of this code shall be governed by the provisions of Title 17.

1.32.100 Appeals Provisions Incorporated By Reference.

Whenever this code incorporates another code by reference, including but not limited to any Part of the California Building Standards Code (codified in Title 24 of the California Code of Regulations), and the incorporated code contains an appeal provision, the appeal procedures established by this Chapter 1.32 shall apply unless the incorporated code expressly provides otherwise.

SECTION 2. Subdivision E of Section 1.36.030 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- E. A description of the administrative citation review process, including the deadline and process for appealing ~~time within which to contest~~ the administrative citation and the place from which to obtain a request for hearing form to contest the administrative citation; and

SECTION 3. Section 1.36.060 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

The fine imposed pursuant to this chapter for a particular violation and for any subsequent violation of the same Code section, shall be paid to the City within 20 business days after the effective date of service of the administrative citation, as described in Section 1.36.040(A). If, after a hearing requested pursuant to Section 1.36.070, the hearing officer determines the administrative citation is not supported by substantial evidence, then the citation shall be null and void and the administrative fine shall be refunded in accordance with the provisions of this chapter.

SECTION 4. Subdivision A of Section 1.36.070 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. The alleged violator may appeal any penalty, citation, or fine issued under this chapter to the City Manager Administrator by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this code. ~~any fine~~

~~assessed by filing a letter of appeal with the City Administrator within ten calendar days after the assessment of the fine. The appeal letter shall include the factual basis for the appeal.~~

SECTION 5. Section 3.12.080 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

If any operator shall fail or refuse to collect such tax and make, within the time provided in this Chapter, any report and remittance of such tax or any portion thereof required by this Chapter, then the Tax Administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give notice of the amount, so assessed by serving it personally or by depositing it in the United States mail postage prepaid, addressed to the operator, so assessed, at his or her last known place of address. Such operator may request a hearing before the Tax Administrator regarding the amount assessed by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this code, ~~within ten days after the serving or mailing of such notice, make application in writing to the Tax Administrator for a hearing on the amount assessed.~~ If application by the operator for a hearing is not made within the time prescribed in Chapter 1.32 of this code, then the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive, immediately due payable; and the operator shall not be allowed to appeal the decision to the City Council, as provided in Section 3.12.090. If such application is made, then the Tax Administrator shall give ~~not less than five days' written~~ notice of the hearing date, in the manner prescribed ~~herein~~ in Chapter 1.32 of this code, to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person, in the manner prescribed herein, of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable ~~after 15~~ 20 business days after the effective date of the decision as defined in Section 1.32.050, unless an appeal is taken as provided in Section 3.12.090.

SECTION 6. Section 3.12.090 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

~~Upon receiving notice of the Tax Administrator's hearing decision, as described in Section 3.12.080, any Any operator aggrieved by the such decision of the Tax Administrator following a hearing requested pursuant to Section 3.12.080 with respect to the amount of such tax, interest and penalties, if any, may appeal the decision to the city council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this code. Council by filing a notice of appeal with the City Clerk within 15 days after the serving or mailing of the determination of tax due. The Council shall fix a time and place for hearing such appeal; and the City Clerk shall give notice, in writing, to such operator at his or her last known place of address. The finding of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.~~

SECTION 7. Subdivisions C and E of Section 3.32.060 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

C. Decision. Upon the filing of an application for administrative review under this Section, the Chief of Police, or designee, shall set a date for the public hearing before the Chief of Police and give the appellant notice of such date in accordance with Chapter 1.32 of this Code. The Chief of Police shall give the appellant written notice of the decision following the public hearing as provided in Chapter 1.32 of this Code. ~~provide the applicant with an opportunity to show cause why costs should be reduced or not recovered. Notice of the date, time, and place of such hearing shall be served by mail on the applicant (at the applicant's address stated in the police report of the incident at issue) at least ten calendar days prior to the hearing. The Chief of Police shall grant or reject the applicant's request and shall send written notice to the applicant by mail not later than ten days after the hearing.~~

...

E. Appeal. Any person aggrieved by the decision of the Chief of Police pursuant to this Section may appeal to the City Council in compliance with the Lompoc Municipal Code Chapter 1.32, except that the appeal must be filed within 30 days after the effective date of the decision by the Chief of Police, as "effective date" is defined in Section 1.32.050. If the City Council affirms a decision of the Chief of Police, payment of the costs shall be due immediately following the Council's decision.

SECTION 8. Subdivision D of Section 3.50.090 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

D. The person owing the tax may appeal ~~Within ten days after the date of service of a determination of the amount of tax owed by a person under this chapter, the person may apply in writing to the Management Services~~

Director by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this code for a hearing on the determination. If application for a hearing before the City is not timely made, then the tax assessed by the Management Services Director shall become final. The procedures for such a hearing shall be conducted as required by law and as follows:

1. The City Council delegates its authority to conduct such a hearing on the determination to an independent hearing officer. The compensation of the hearing officer shall not depend on any particular outcome of the appeal. The hearing officer shall have full authority and duty to preside over the hearing on the determination in the manner set forth herein and as required by law.
2. ~~Within 30 days after the receipt of any such application for hearing, the~~ The Management Services Director shall cause the matter to be set for hearing before the independent hearing officer in accordance with the time requirements in Chapter 1.32 of this Code. ~~, unless a later date is agreed to by the Management Services Director and the person requesting the hearing.~~
3. Notice of the hearing shall be given by the Management Services Director to the person requesting the hearing as required in Chapter 1.32 of this Code. ~~not later than five days prior to the date of the hearing.~~ For good cause, the hearing officer may continue the administrative hearing from time to time. At the hearing the applicant may appear and offer evidence to show why the determination as made by the Management Services Director should not be confirmed and fixed as the tax due. In conducting the hearing, the hearing officer shall not be limited by the technical rules of evidence. Failure of the person who applied for a hearing on the determination to appear shall not affect the validity of the proceedings or order issued thereon.
4. Upon conclusion of the hearing, or no later than ten days after the conclusion of the hearing, the hearing officer shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in this chapter for giving notice of determination, and the hearing officer shall submit its decision and the record to the City Clerk. The decision of the hearing officer shall be final.

SECTION 9. Subdivision C of Section 4.04.100 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- C. Appeals. Any person who objects to a ruling of the Aviation/Transportation Administrator may ~~within 15 days of the ruling~~ appeal the ruling same to the Airport Commission by filing a notice of appeal in accordance with the

requirements of Chapter 1.32 of this Code. ~~, which may consider the matter. Appeals shall be filed with the City Clerk who will then schedule a public hearing and notify all interested parties. Decisions of the Commission may be appealed to the City Council within 15 days of the Commission's decision by either the appellant or the Aviation/Transportation Administrator by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code.~~

SECTION 10. Subdivision C of Section 5.04.140 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- C. If such a determination is made, the Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States post office at Lompoc, California, postage prepaid, addressed to the person so assessed at his or her last known address. Such person may appeal the determination to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~, within 15 days after the mailing or serving of such notice, make application in writing to the Collector for a hearing on the amount of the business tax. If such application is made, the Collector shall cause the matter to be set for hearing within 30 days before the City Council. The Collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The Council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving notices of assessment.~~

SECTION 11. Section 5.04.150 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

Any person aggrieved by any decision of the Collector with respect to the issuance or refusal to issue such business tax certificate receipt may appeal to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~Council by filing a notice of appeal with the Clerk of the Council. The Council shall thereupon fix a time and place for hearing such appeal. The Clerk of the Council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States post office at Lompoc, California, postage prepaid, addressed to such person at his or her last known address. The Council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this Chapter.~~

SECTION 12. Section 5.08.190 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

The applicant or any person dissatisfied with the determination of the issuing body or officer relative to any application for permit or license filed hereunder, or the revocation or suspension of any permit may appeal to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~from said determination, provided a written notice of appeal is filed not later than ten days from the date of the notice to applicant of the determination made on the application. When notice of determination is given applicant by mail, it shall be conclusively presumed to have been received on the day following its deposit in the mail. All appeals shall be made in the form and manner as required by the City Clerk. The City Council shall hear said appeal within 30 days from filing of the notice of appeal. The City Council shall either affirm, reverse or modify the decision of the issuing body or officer and its determination on said appeal shall be final.~~

SECTION 13. Subdivisions B, C, and E, of Section 5.16.050 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- B. The licensee may request a hearing before the City Clerk to determine whether the license shall be revoked by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~The order of suspension shall notify the licensee of the right that it shall have five days from the date of said suspension to request a hearing to determine whether such license shall be revoked. Failure to request such a hearing shall result in revocation of the license.~~
- C. Upon such request the City Clerk shall provide a hearing pursuant to the requirements of Chapter 1.32 of this Code, ~~within ten days after receipt of such request~~ at which hearing the suspended licensee may appear before the City Clerk for the purpose of presenting evidence why the license should not be revoked. ~~Three days written notice of said hearing shall be made to licensee. The hearing shall be open to the public.~~
- ...
- E. The licensee shall have the right to appeal the decision of the City Clerk to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~on the same terms and conditions as its appeal from the original suspension of the license.~~

SECTION 14. Subdivision D of Section 5.20.060 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- D. Any person denied a permit may appeal to the City Manager Administrator or his or her designee by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this code. ~~within ten days from such denial.~~ The decision of the City Manager may be appealed to the City Council by filing a notice of appeal in accordance with the requirements of

Chapter 1.32 of this Code. ~~Any appeal therefrom shall be made within ten days to the City Council.~~

SECTION 15. Section 5.20.070 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

The Police Chief may suspend or revoke any permit issued pursuant to this Chapter in the event that the permittee violates or permits any infraction of any applicable law, rule, regulation, ordinance or order, or any condition in any license or permit issued by the Department of Alcoholic Beverage Control, or any rule or regulation promulgated by the Department of Alcoholic Beverage Control. Upon recommendation of the Police Chief, the City Manager or his or her designee may revoke any permit issued pursuant to this Chapter whenever, after a hearing before the City Manager or his or her designee, any person to whom a permit has been granted shall be found to have violated any of the terms, conditions, regulations or provisions of this Chapter or of any rules and regulations adopted pursuant to this Chapter. Any appeal from such decision of the City Manager or his or her designee may be made to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~shall be made within ten days to the City Council.~~

SECTION 16. Section 5.32.060 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

Any person objecting to any denial, suspension or revocation of a permit applied for or held by him or her pursuant to the provisions of this Chapter or to any action taken by any official of the City concerning such permit may appeal in writing to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~by filing with the City Clerk a written notice of such appeal, setting forth the specific grounds thereof. Such notice must be filed within 14 days after notice of such action appealed from. The City Clerk shall forthwith set such manner for hearing before the City Council and cause notice thereof to be given to the appellant not less than five days prior to such hearing. At such hearing the appellant shall show cause, on appeal, why the action excepted to should not be approved. Such hearing may, by the City Council, be continued over from time to time, and its findings of the appeal shall be final and conclusive in the matter.~~

SECTION 17. Section 5.36.250 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

Any person whose application for a driver's permit or request for its renewal has been denied pursuant to Section 5.36.190 or any driver whose permit has been revoked by the Chief of Police pursuant to Section 5.36.240 may appeal the denial or revocation to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~, within ten days of such denial or revocation, file with the City Clerk an appeal thereof; and a hearing shall be held before the City Council on such denial or revocation. If, in the opinion of~~

the Council, the denial or revocation is not justified from the evidence submitted to it at such hearing, the permit shall be issued or reinstated. If, upon the hearing, it shall appear that good cause exists for the denial or revocation, the Council shall affirm the action of the Chief of Police and order the denial or revocation of the permit. Pending such hearing, it is unlawful for such applicant or driver to operate or control a taxicab within the City. ~~If the denial or revocation is affirmed by the Council, the permittee may seek prompt judicial review of such administrative action.~~

SECTION 18. Section 5.40.090 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

After denial of an application for an adult business regulatory permit or an adult business employee license, or after denial of renewal of a permit or license, or suspension or revocation of a permit or license, the applicant or person to whom the permit or license was granted may seek prompt review of such administrative action by the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~an appeal within ten days of the decision. The review procedure shall be established by resolution of the City Council. If the denial, suspension or revocation is affirmed on review, the applicant, permittee or licensee may seek prompt judicial review of such administrative action.~~

SECTION 19. Subdivision A of Section 5.44.150 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. If a permit for a massage parlor or massage technician is denied, revoked, or suspended, an applicant may, ~~within ten days after the notice of denial, revocation, or suspension is given,~~ request a hearing before the City Manager Administrator ~~by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code.~~ ~~The City Administrator shall fix a time and place for the hearing and give notice of it to the applicant at least ten days in advance.~~ At the hearing, the City Manager Administrator shall hear and receive evidence to determine whether the permit denial, revocation, or suspension shall be sustained, reversed, or modified. ~~The City Administrator shall make and give the applicant notice of his or her decision within 21 days after close of the hearing.~~

SECTION 20. Subdivision A of Section 5.44.160 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. Any person aggrieved by the decision of the City Manager Administrator may appeal from such decision to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~A written notice of appeal, concisely stating the facts of the case and the grounds of appeal, shall be filed with the City Clerk within ten days after notice of the City Administrator's decision is given. The City Clerk shall set the matter for hearing at a regular meeting of the City Council and give~~

~~the applicant notice of the time and place of the hearing at least ten days in advance. The decision of the City Council made after the appellant has had an opportunity to be heard is final. The City Council shall direct the City Clerk to give the appellant notice of its decision within 21 days after the close of the hearing. The decision of the City Council is final.~~

SECTION 21. Section 5.48.040 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

Application for an alarm system permit shall be filed with the Department. The Department shall issue a permit for the premises unless the Department finds that good cause exists to deny the permit. Good cause to deny the permit shall include, but not be limited to the installation of unreliable or otherwise faulty alarm system equipment, the failure of the applicant to pay permit or service fees on any system operated by the applicant or factors which demonstrate that the public health and safety would be endangered by the issuance of the permit. In the event the Department denies an application for a permit for any reason, the applicant may appeal the decision to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code ~~within ten days of the decisions.~~

SECTION 22. Subdivision C of Section 5.66.040 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- C. The franchise holder may appeal any imposition of penalties to the City ~~Manager Administrator~~ by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~Any appeal must be made within 30 calendar days after the City's delivery of the notice regarding the imposition of penalties. All appeals must be timely submitted in writing to the City Clerk.~~ Any appeal must contain a detailed explanation of why the applicant believes that the finding of material breach or the imposition of penalties was inconsistent with statutory requirements or authority.

SECTION 23. Subdivisions A and C of Section 6.08.310 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. Whenever a dog is subject to mandatory sterilization pursuant to this article the owner or keeper of such animal may request a public hearing to be held before the City's Hearing Officer by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~That request shall be made to the Hearing Officer within ten days after~~ The decision triggering the time period to file an appeal shall be the notice to such owner or keeper that sterilization of such dog is required. The owner or keeper of the dog may appear in person at the hearing or present a sworn written statement showing good cause why the dog should be exempted from mandatory sterilization. Good cause shall be shown by the owner's or keeper's presentation of facts in mitigation of mandatory sterilization.

...

- C. If the owner or keeper of the dog wishes to appeal the Hearing Officer's determination, then he or she may, ~~within 10 calendar days after the determination,~~ request a hearing before the City Manager by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. The hearing shall be held in accordance with Subsections A and B of this Section. The decision of the City Manager shall be final, notwithstanding any other contrary provision of this article.

SECTION 24. Subdivision (D)(2) of Section 8.04.190 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

2. If the Director determines that a permit to provide unscheduled solid waste handling services shall not be issued or if the decision to issue or not issue the permit is not made as provided in Subsection (D)(1) of this Section, or if the Director recommends the suspension, amendment, or revocation of a permit pursuant to Subsection F of this Section, the applicant shall have the right to a hearing before the City Council. A request for a hearing shall be made by the applicant by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~in writing to the City Clerk within 15 calendar days after the period provided in Subsection (D)(1) has passed or within 15 days after the date of notification of the proposed suspension, amendment, or revocation.~~ Upon receipt of the written request for a hearing, the Clerk shall set the matter for hearing not more than 60 days following the receipt of the written request, and shall give written notice of the time, date, and place of the hearing to the applicant and the Director. At the hearing, the applicant shall have the burden of proof to show facts demonstrating that the applicant meets the requirements of this Chapter and applicable State and Federal laws and regulations and that either the granting of the permit is required by the public safety, health, welfare, convenience or necessity or that the proposed suspension, amendment, or revocation should not be sustained. ~~The City Council shall render its decision in writing 15 days after the close of the hearing on appeal. The decision of the City Council shall be final.~~

SECTION 25. Subdivision A of Section 8.28.030 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. Except as provided in subsection C of this section, no non-profit organization shall submit more than one application for a permit to sell safe and sane fireworks within the City. If more than one application is submitted on behalf of any non-profit organization, including an affiliated organization, then any or all such applications could be voidable at the

discretion of the Fire Chief; and the Fire Chief, or designee, shall provide written notice to the affiliated applicants of his or her decision within ten City-working days after receipt of the affiliated applications. If any recipient of that notice disagrees with that decision, the recipient may appeal the decision of the Fire Chief to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~then, if a written appeal has been filed by that recipient and received by the City Clerk within five days after that notice has been transmitted to that recipient, the City Council shall, at a duly noticed public meeting, decide whether the organizations or groups are affiliated.~~ The appeal shall include the reasons that recipient disagrees with the Fire Chief's decision. Any attempt to transfer an application shall void any and all applications filed by or on behalf of the transferor/non-profit organization and the transferee/non-profit organization. Notwithstanding the foregoing, if the non-profit organization is affiliated with a school or school district, but maintains a separate tax exempt status with the Internal Revenue Service or the California Secretary of State, then that non-profit organization shall be allowed a separate application.

SECTION 26. Subdivisions D and F of Section 8.28.160 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

D. Right to an Administrative Hearing.

1. Any citee may contest any citation, or that he or she is a responsible person, by filing a request for an administrative hearing in accordance with the requirements of Chapter 1.32 of this Code. ~~on a City-approved form with the City Clerk within 30 calendar days after the issuance date of a citation. If the City Clerk does not receive the request in the required time period, then the citee shall have waived a right to a hearing and the citation shall be deemed confirmed and final.~~
2. ~~No fees shall be charged for the filing of a request for a hearing.~~
- 3 2. Citees must deposit the full amount of the penalty listed on the citation, on or before the request for a hearing is filed. Failure to deposit the full amount of all penalties within the required time period, or the tender of a non-negotiable check, shall render a request for an administrative hearing incomplete and untimely. Penalties that are deposited with the City shall not accrue interest. Penalties deposited shall be returned to the person who deposited them if the citation is overturned.
- 4 3. A request for a hearing shall contain the following:
 - a. The citation number;

- b. The name, address, telephone number and any facsimile numbers and e-mail addresses of each person contesting the citation;
 - c. A statement of the reason(s) why a citation is being contested; and
 - d. The date and signature of the citee(s).
- 5 ~~4~~. The City will notify all persons who filed a request for a hearing in writing by First Class Mail of the date, time and place set for the hearing at least ten calendar days prior to the date of the hearing, which shall be set in accordance with the requirements of Chapter 1.32 of this Code. Service of this notice is deemed complete at time of mailing. The failure of a citee to receive a properly addressed notice shall not invalidate the citation or any hearing, City action or proceeding conducted pursuant to this Chapter.
- ~~6. The hearing will be conducted within 60 days after the date a timely and complete request is received by the City Clerk.~~
- 7 ~~5~~. If the CEO submits an additional written report concerning the citation to the City for consideration at the hearing, then the CEO shall also serve a copy of such report by First Class Mail on the person requesting an administrative hearing no less than seven calendar days prior to the date of the hearing. Failure to receive that report shall not invalidate the citation or any hearing, City action or proceeding pursuant to this Chapter.

...

F. Hearing Decision—Right of Appeal.

1. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or overturn the citation and shall state the reasons therefor.
2. The hearing officer shall serve the citee by First Class Mail with a copy of the written decision. The date the decision is deposited with U.S. Postal Service shall constitute the date of its service. The failure of a citee to receive a properly addressed decision shall not invalidate any hearing, City action or proceeding conducted pursuant to this Chapter.
3. A decision of the hearing officer may be appealed to the City ~~Manager Administrator~~ by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~within 30 days after the date of its service.~~ Each decision shall contain a statement

advising the citee of this appeal right and the procedure for its exercise. ~~A citee shall file a notice of appeal with the City Clerk within 20 calendar days after the date of service of the hearing officer's decision.~~

4. If a hearing officer's decision is not appealed in a timely manner, then the decision shall be deemed confirmed.
5. The City Manager ~~Administrator~~ shall conduct an appeal hearing and provide notice of any decision in the same manner as established for the hearing officer pursuant to subsection B of this section. The City Manager's ~~Administrator's~~ decision is final. If a citee or responsible person prevails on appeal, then the City shall reimburse his or her fine deposit within 30 calendar days after the City Manager's ~~Administrator's~~ decision on the appeal.

SECTION 27. Subdivision D of Section 9.36.080 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- D. The City Manager's decision to deny issuance of a commercial cannabis use license may be appealed to the City Council ~~is appealable~~ by the applicant whose cannabis application was denied by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code, subject to the following:
 1. ~~Within ten days after that denial, the applicant must file, with the City Clerk, an appeal and pay the fees, therefor, as determined by Resolution of the City Council;~~
 2. ~~That appeal must be in writing, specify the person making the appeal, state the reasons for the appeal and include any evidence in support of the appeal;~~
 3. ~~Upon the City Clerk's receipt of that appeal and payment of those fees, the City Manager shall schedule the hearing for the appeal before the City Council at the next available regular City Council meeting;~~
 4. ~~The City Council's consideration of that appeal shall be a de novo hearing;~~
 - 5 1. The only written information the City Council will consider for that meeting will be: (i) the written appeal filed by the applicant; and (ii) the staff report prepared by the City Manager;
 - 6 2. Oral testimony by or on behalf of the appellant and City Manager shall also be allowed. ~~Strict compliance with the California Evidence Code will not be required; and~~

- ~~7~~ 3. At least ten days before the date of the meeting at which the appeal will be heard, the City Clerk shall give written notice to the appellant of the time and date of the appeal hearing and a copy of this Subsection D.

SECTION 28. Subdivision B of Section 9.36.130 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- B. Appeals. Any decision to revoke a commercial cannabis use license may be appealed to the City Manager, by the person to whom the commercial cannabis use license was issued, by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code, and as follows:
- ~~1.~~ 1. ~~That individual must file a written appeal with the City Clerk within ten calendar days after the date the commercial cannabis use license was revoked. The written appeal shall specify the person making the appeal, identify the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal.~~
 - ~~2.~~ 2. ~~Notice of the time and place of an appeal hearing shall be provided to the appellant within 30 days after receipt by the City Clerk of the written appeal.~~
 - ~~3.~~ 3. ~~The appeal hearing shall be held within 60 days after receipt by the City Clerk of the written appeal, unless the 60-day time limit is waived by the appellant, or unless the City Manager continues the appeal hearing date for good cause and upon written notification to the appellant.~~
 14. The appellant shall personally appear at the hearing and may be accompanied by a representative.
 25. No oral testimony, other than from the Police Chief and appellant, shall be allowed at the appeal hearing. ~~Strict compliance with the California Evidence Code will not be required.~~
 36. The City Manager shall: (i) review the facts of the matter, written documents submitted for review, oral testimony, if any, the basis for the decision which is under appeal; and (ii) then determine whether the Police Chief's decision should be reversed or affirmed. The determination made shall be in writing and shall set forth the reasons for the determination.
 47. The City Manager's decision shall be appealable to the City Council by the individual to whom the commercial cannabis use license was issued.

58. Such appeal shall be made and be processed in accordance with Subdivision 9.36.080(D).

SECTION 29. Subdivisions B through F of Section 9.40.060 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- B. Any person upon whom a civil penalty is imposed pursuant to Section 9.40.040 may appeal such civil penalty pursuant to the procedures set forth in this Section. ~~The appellant must file a written appeal with the City within ten working days of service of the violation notice or any other date of mailing of a notice of determination of the civil penalty. The written appeal shall contain:~~
- ~~1. A brief statement setting forth the interest the appellant has in the matter relating to the imposition of the civil penalty;~~
 - ~~2. A brief statement of the material facts which the appellant claims supports his or her contention that no civil penalty should be imposed or that a civil penalty of a different amount is warranted;~~
 - ~~3. The signatures of the appellant and his or her official mailing address.~~
- ~~C.~~ An appeal of a civil penalty imposed for violations of Section 9.40.020 shall be heard by a person appointed by the City Administrator to act as the hearing examiner. The civil penalty appeal hearing shall be set no sooner than 20 days and no later than 45 days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least 12 calendar days before the date set for the hearing. Failure to appear timely will cause the civil penalty to become a final order or decision.
- ~~D~~ C. An appeal of a civil penalty imposed for violations of Section 9.40.020 shall be heard by a person appointed by the City Manager to act as the hearing examiner. In reviewing the penalty, the hearing examiner shall consider all facts relating to the issuance of the citation and the reasons therefore and shall uphold the penalty imposed, eliminate the penalty, or modify it. The decision of the hearing examiner shall constitute the final administrative order or decision of the local agency within the meaning of Government Code Section 53069.4(b)(1).
- ~~E~~ D. The hearing examiner shall serve a copy of his or her written decision on the appellant by first class mail to the address provided by appellant in the written notice of appeal. ~~The hearing examiner's decision shall be deemed served within two days after the date it was mailed to the address provided by the appellant.~~

- ~~F. The costs of the administrative hearing may be assessed to the Responsible Person in addition to any other fines and penalties in the event the citation is upheld.~~

SECTION 30. Section 10.44.090 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. Any interested party may appeal the decision of the hearing officer to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~written notice of appeal with the said hearing officer within five days after the decision.~~
- ~~B. Such appeal shall be heard by the City Council which may affirm, amend, or reverse the order or take other action deemed appropriate.~~
- BC. The Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 10.44.070.
- ~~D. In conducting the hearing, the City Council shall not be limited by the technical rules of evidence.~~

SECTION 31. Subdivision H of Section 12.12.020 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- H. In the event an applicant wishes to appeal the Public Works Director's decision to deny an application or revoke a permit issued pursuant to this Chapter, the decision may be appealed to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~An appeal shall be filed by submitting to the City Clerk, within ten days after the Public Works Director's notification of a decision on the application, a notice of appeal stating the grounds for the appeal, along with a filing fee in an amount established by resolution of the City Council. If the tenth day falls on a weekend or legal holiday recognized by the City, then the final appeal day shall be the next regular business day of the City. Within 30 days after the receipt of a timely appeal, the City Administrator shall agendize a City Council hearing to consider the appeal.~~

SECTION 32. Section 12.28.070 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- A. Any person aggrieved by a decision reached by the Community Services Director or Planning Commission, pursuant to the provisions of this Chapter, may file an appeal from such decision to the City Council in accordance with the requirements of Chapter 1.32 of this Code.
- ~~B. Such appeal shall be in written form and shall briefly describe the nature of the decision made and the reasons for the appeal. Such appeal shall~~

~~be filed with the City Clerk. Upon receiving such an appeal, the City Clerk shall set the same for consideration by the City Council at its next most convenient meeting, and shall give the appealing party, and any other person requesting the same, five days' written notice of the time and place of such hearing, by United States mail, postage prepaid, addressed to such persons at their last known addresses. The hearing, to be conducted by the Council upon such an appeal, need not be a formal public hearing, provided that all interested persons shall be given a reasonable opportunity to be heard. The City Council shall either affirm, reverse, or modify the decision of the Planning Commission, and its decision shall be final and conclusive.~~

SECTION 33. Section 12.32.100 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

~~Any interested person may appeal in writing to the City Council from any action taken, pursuant to this Chapter, by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. The appeal must be filed with the City Clerk within ten days from the date of such action and the City Council shall set a public hearing, duly advertised, once in a newspaper of general circulation in the City of Lompoc, at least ten days before the date of such hearing to consider such appeal, and the City Council may confirm, modify, or set aside such actions.~~

SECTION 34. Subdivision (B)(3) of Section 15.40.020 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

3. Any person having a legal or equitable interest in a building identified as potentially hazardous may appeal such classification to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. All appeals shall comply with the appeals provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, and the requirements of Chapter 1.32 of this code, as provided in Section 1.32.100 of this code.

SECTION 35. Subdivision (C)(5) of Section 15.48.070 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

5. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.48.070(D) 15.48.090.

SECTION 36. Section 15.56.060 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

The applicant or any other person affected may appeal the action of the Planning Commission to the City Council by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~written application to the Council within 10 days from the date of Commission action. The City Council may sustain, modify, reject or overrule any action of the Planning Commission and may take any action not inconsistent with the provisions of State law and the City Code. The Council shall render its decision on said appeal within 30 days of receipt of the written appeal, unless said time period is extended by mutual consent of the applicant and City Council. Failure to act within said 30-day period or agreed extension thereon shall be deemed an approval of Planning Commission action.~~

SECTION 37. Section 15.72.160 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

The decision of the Building Official, upon applications for permits under this Chapter, shall be in writing, and a copy of such decision shall be served upon the applicant, in person or by first class mail, postage prepaid. Any other person who files a written request with the Building Official shall also receive a copy of such decision.

If the applicant or any other person is dissatisfied with any determination made by the Building Official, then he, she or it may request an administrative hearing before the Community Development Director by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~appeal in writing within ten days after the date of the Building Official's written decision and as required by Section 1.32.010, General Appeal Provision, of this Code; provided that whenever that section refers to: (1) the City Council, it shall be deemed to mean the Public Works Director; (2) the City Clerk, it shall mean the Public Works Director's Secretary; and (3) a public hearing, it shall be deemed to mean an administrative hearing conducted by the Public Works Director.~~

SECTION 38. Section 15.76.080 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

Pursuant to subdivisions (b) and (c) of Government Code Section 65850.7, decisions of the Building Official may be appealed to the Planning Commission by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code. ~~A written appeal must be filed with the City Clerk within 10 business days after the issuance of the decision of the Building Official accompanied by a filing fee in an amount that may be set by City Council resolution from time to time.~~

SECTION 39. Section 16.04.110 of the Lompoc Municipal Code shall be amended to add subsection (E), which shall read as follows:

- E. Appeal. If the Planning Commission denies a request for the extension of a tentative map, the applicant may appeal to the City Council in accordance with the provisions of Section 16.32.020.

SECTION 40. Chapter 16.32 of the Lompoc Municipal Code is hereby deleted and replaced with the following:

Chapter 16.32 APPEALS

16.32.010 Appeals From Approval, Conditional Approval, or Denial of Tentative or Parcel Map.

- A. The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or an interested person adversely affected, may file an appeal to the City Council concerning any action of the Planning Commission with respect to the approval, conditional approval, or denial of a tentative or parcel map.
- B. A notice of appeal under this section shall be filed within 10 days after the decision of the Planning Commission that is the subject of the appeal in accordance with the requirements of Chapter 1.32 of this Code. Notwithstanding any other provision of this Code, the hearing shall be held and noticed in accordance with, and shall be subject to, the timelines and other requirements of Government Code Section 66452.5, or any successor statute.

16.32.020 Appeals From Denial Of Tentative Map Extension.

Pursuant to Government Code Sections 66452.6(e) and 66463.5(c), or any successor statutes, if the Planning Commission denies a request for the extension of a tentative map, the applicant may appeal to the City Council by filing a notice of appeal within 15 days after the Planning Commission denies the extension in accordance with the requirements of Chapter 1.32 of this Code.

16.32.030 Appeals From Denial Of Extension Of Rights Conferred By Vesting Map.

If the Planning Commission denies a request for a one-year extension of the rights conferred by a vesting tentative map pursuant to Government Code section 66498.5(c) or any successor statute, the applicant may appeal to the City Council by filing a notice of appeal within 15 days after the Planning Commission denies the extension in accordance with the requirements of Chapter 1.32 of this Code.

SECTION 41. Subdivision (C)(3) of Section 16.40.090 of the Lompoc Municipal Code shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

- 3. A subdivider may apply for a one-year extension of any time before the initial time period set forth in Subsection (C)(1) of this Section expires. If the extension is denied, the subdivider may appeal that denial to the City Council ~~within 15 days~~ in accordance with the provisions of Section 16.32.030.

SECTION 42. Wherever “City Administrator” appears in the Lompoc Municipal Code, whether capitalized or lower case, it shall be changed to capitalized “City Manager.”

SECTION 43. Wherever “business tax receipt” appears in the Lompoc Municipal Code, whether capitalized or lower case, it shall be changed to “business tax certificate” and shall maintain the same capitalization as in the current version of the code.

SECTION 44. Effective Date. This Ordinance shall be effective on the thirty-first day after its adoption.

This Ordinance was introduced on [insert meeting date], and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____, 2020, by the following electronic vote:

PASSED AND ADOPTED this ___ day of ___ 2020, by the following electronic vote:

AYES: Council Member(s):

NOES: Council Member(s):

ABSENT: Council Member(s):

Jenelle Osborne, Mayor
City of Lompoc

Attest:

Stacey Haddon, City Clerk
City of Lompoc