

ORDINANCE NO. ORD-06-0020

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING SECTION 21.21.507 TO  
ESTABLISH A PROCEDURE PURSUANT TO SECTION  
21151(C) OF THE CALIFORNIA PUBLIC RESOURCES  
CODE FOR APPEALS TO THE CITY COUNCIL FROM  
ENVIRONMENTAL DETERMINATIONS BY THE BOARD OF  
HARBOR COMMISSIONERS

WHEREAS, Section 21151(c) of the California Public Resources Code  
(the "Statute") provides that:

"If a nonelected decisionmaking body of a local lead agency certifies an  
environmental impact report, approves a negative declaration or mitigated negative  
declaration, or determines that a project is not subject to [the California Environmental  
Quality Act], that certification, approval, or determination may be appealed to the  
agency's elected decisionmaking body, if any."

WHEREAS, the Statute and the applicable regulations, Section 15090(b)  
of Title 14 of the California Code of Regulations, do not specify a procedure for such  
appeals.

WHEREAS, the City Council would now like to establish a procedure for  
conducting appeals of environmental determinations of the Harbor Department.

NOW, THEREFORE, the City Council of the City of Long Beach ordains  
as follows:

Section 1. The Long Beach Municipal Code is amended by adding  
Section 21.21.507 to read as follows:

21.21.507 Appeals from Harbor Department Environmental  
Determinations.

A. Appellants. Any person who appeared before the Board of Harbor Commissioners (the "Board") and objected to the Board's (1) certification of an environmental impact report, (2) approval of a negative declaration or mitigated negative declaration, or (3) determination that a project is not subject to the California Environmental Quality Act ("CEQA") (collectively "Environmental Determinations"), may appeal that Environmental Determination to the City Council.

B. Time to File an Appeal. An appeal of an Environmental Determination by the Board ("Appeal") must be filed within ten (10) business days after the Environmental Determination.

C. Filing Fee. No filing fee will be charged for an Appeal.

D. Place to File. An Appeal must be filed with the City Clerk.

E. Contents of Appeal. There is no required form for an Appeal, but all Appeals shall be in writing and shall contain the following information:

(1) The name, address and telephone number of the person filing the appeal (the "Appellant").

(2) All grounds for the Appeal, specifying in detail why the appellant contends that the Environmental Determination does not comply with CEQA.

(3) Evidence that each ground for the Appeal was submitted to the Board by the Appellant or another person before the Environmental Determination.

(4) All documentation the Appellant relies on in support of

1 the Appeal.

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3 F. Effect of an Appeal. The filing of an Appeal will stay the effect  
4 of: (1) the Environmental Determination; (2) any project approval made pursuant to the  
5 Environmental Determination; and (3) any notice of determination; until the City Council  
6 renders a decision on the Appeal.

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8 G. Hearing on the Appeal. The City Clerk shall set a hearing on  
9 the Appeal on the agenda of the City Council not more than sixty (60) days from the  
10 date the Appeal is filed with the City Clerk.

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12 H. Notice of Hearing. The City Clerk shall provide notice of the  
13 hearing to the Appellant and to the Board not less than ten (10) business days before  
14 the hearing.

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16 I. Conduct of the Hearing. The Appellant shall have an opportunity  
17 to present its grounds for contending that the Environmental Determination does not  
18 comply with CEQA and the Harbor Department shall have an equal opportunity for  
19 rebuttal. Any other interested persons shall be limited to three (3) minutes each to state  
20 their views on the Appeal.

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22 J. City Council Decision. Following the hearing, the City Council  
23 may either: (1) deny the Appeal and affirm the Environmental Determination; or (2)  
24 grant the Appeal, set aside the Environmental Determination and remand to the Board.

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26 Sec. 2. The City Clerk shall certify to the passage of this ordinance by the  
27 City Council and shall cause the same to be posted in three conspicuous places in the  
28 City of Long Beach, and it shall take effect on the thirty-first day after it is approved by

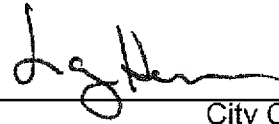
1 the Mayor.

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3 I hereby certify that the foregoing ordinance was adopted by the City  
4 Council of the City of Long Beach at its meeting of May 23, 2006 by the  
5 following vote:

6 Ayes: Councilmembers: Lowenthal, Colonna, O'Donnell,  
7 Richardson, Reyes Uranga,  
8 Gabelich, Kell.

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10 Noes: Councilmembers: None.

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12 Absent: Councilmembers: Lerch.

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City Clerk

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19 Approved: 8-15-2006  
(Date)

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Mayor