

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH 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. 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

1 Environmental Quality Act ("CEQA") (collectively "Environmental Determinations"), may
2 appeal that Environmental Determination to the City Council.

3
4 Sec. 2. Time to File an Appeal. An appeal of an Environmental
5 Determination by the Board ("Appeal") must be filed within ten (10) business days after
6 the Environmental Determination.

7
8 Sec. 3. Filing Fee. No filing fee will be charged for an Appeal.

9
10 Sec. 4. Place to File. An Appeal must be filed with the City Clerk.

11
12 Sec. 5. Contents of Appeal. There is no required form for an Appeal, but
13 all Appeals shall be in writing and shall contain the following information:

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

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

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

22 (4) All documentation the Appellant relies on in support of the
23 Appeal.

24
25 Sec. 6. Effect of an Appeal. The filing of an Appeal will stay the effect of:
26 (1) the Environmental Determination; (2) any project approval made pursuant to the
27 Environmental Determination; and (3) any notice of determination; until the City Council
28 renders a decision on the Appeal.

1 Sec. 7. Hearing on the Appeal. The City Clerk shall set a hearing on the
2 Appeal on the agenda of the City Council not more than sixty (60) days from the date
3 the Appeal is filed with the City Clerk.

4
5 Sec. 8. Notice of Hearing. The City Clerk shall provide notice of the
6 hearing to the Appellant and to the Board not less than ten (10) business days before
7 the hearing.

8
9 Sec. 9. Conduct of the Hearing. The Appellant shall have an opportunity
10 to present its grounds for contending that the Environmental Determination does not
11 comply with CEQA and the Harbor Department shall have an equal opportunity for
12 rebuttal. Any other interested persons shall be limited to three (3) minutes each to state
13 their views on the Appeal.

14
15 Sec. 10. City Council Decision. Following the hearing, the City Council
16 may either: (1) deny the Appeal and affirm the Environmental Determination; or (2)
17 grant the Appeal, set aside the Environmental Determination and remand to the Board.

18
19 Sec. 11. The City Clerk shall certify to the passage of this ordinance by
20 the City Council and shall cause the same to be posted in three conspicuous places in
21 the City of Long Beach, and it shall take effect on the thirty-first day after it is approved
22 by the Mayor.

23
24 I hereby certify that the foregoing ordinance was adopted by the City

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26 //

27 //

28 //

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1 Council of the City of Long Beach at its meeting of _____, 2006 by the
2 following vote:

3 Ayes: Councilmembers: _____

4 _____

5 _____

6 _____

7 Noes: Councilmembers: _____

8 _____

9 Absent: Councilmembers: _____

10 _____

11 _____

12 _____

13 _____ City Clerk

14 _____

15 _____

16 Approved: _____
17 (Date) _____ Mayor

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 _____

26 _____

27 _____

28 DTH:rjr 05/09/06 #06-01770

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