

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

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

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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.

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

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

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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.

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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.

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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.

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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.

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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.

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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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Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2006 by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

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Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

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\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor

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

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