

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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September 18, 2002

Tue 7b

TO: COMMISSIONERS AND INTERESTED PERSONS**FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR SAN DIEGO AREA OFFICE****SUBJECT: CITY OF IMPERIAL BEACH DE MINIMIS LOCAL COASTAL PROGRAM
AMENDMENT 3-2002 (FEES) FOR COMMISSION REVIEW AT ITS
MEETING OF OCTOBER 8-10, 2002**

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a "de minimis" amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission for its concurrence.

PROPOSED AMENDMENT

The City of Imperial Beach has recently reviewed and updated the City's "Minimum Initial Deposit Schedule" which lists fees for development projects. In doing so, City staff determined there were a number of antiquated fee provisions located throughout the city codes that should be revised or eliminated. The proposed amendment eliminates all existing references to fees in the zoning code and adds a new Chapter 19.88 that authorizes the collection of fees and requires persons requesting services from the city to make a deposit towards the fees. The purpose of the fees is to fully recover the costs to the City of providing services.

The City Council resolution that approves and conveys the proposed de minimis LCP amendment is attached. A ~~strike-out~~/underline version of the proposed ordinance is attached. Since this attachment does not list the code sections proposed to be deleted other than by reference, Attachment 2 lists each section that is proposed to be deleted. Only Title 19 (ZONING) of the City's code is part of the certified LCP and thus, only the changes to that section are before the Commission. The LCP amendment was approved by the City Council on May 15, 2002. The amendment was properly noticed through newspaper publication and direct mail and there are no known interested parties. The amendment request was received and filed complete on August 30, 2002; therefore, the date by which the Commission must take action, absent an extension of the time limits by the Commission, October 29, 2002.

ORDINANCE NO. 2002-981

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF IMPERIAL BEACH
AMENDING TITLES 16, 18, AND 19 OF
THE IMPERIAL BEACH MUNICIPAL CODE
REGARDING PLANNING AND ZONING FEES. MF 571

WHEREAS, the City Council of the City of Imperial Beach continues to find that it is prudent fiscal policy to fully recover the costs associated with the processing of permits for development projects; and

WHEREAS, the City Council of the City of Imperial Beach finds it necessary to periodically review and update the City's Minimum Initial Deposit Schedule for development projects; and

WHEREAS, the City Council of the City of Imperial Beach finds that this amendment repeals any apparent conflicting provisions in the City Code and would clarify the City's fee and deposit requirements regarding the processing of development-related permits; and

WHEREAS, the City Council of the City of Imperial Beach finds that the requirement to submit deposits into an account or a fund to recover but not exceed the costs of processing development permits is consistent with the provisions of California Government Code Sections 65909.5, 65943, and 66014; and

WHEREAS, the City Council of the City of Imperial Beach held a public hearing, pursuant to Government Code Section 66018, on May 1, 2002, regarding the proposed amendment; and

WHEREAS, the City Council of the City of Imperial Beach finds that due notice, pursuant to Government Code Section 6062a, was published in the Imperial Beach and South County Eagle and Times regarding this amendment; and

WHEREAS, the City Council of the City of Imperial Beach finds this amendment to be statutorily exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15273 (Rates, Tolls, Fares, and Charges).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

SECTION 1: Section 16.04.060(B) of Chapter 16.04 of the Imperial Beach Municipal Code is amended to read as follows:

"B. The initial study shall include a determination as to whether or not the project may have a significant effect on the environment. In making this determination, the Planning Director may require the applicant to provide such information as is deemed reasonably necessary to make a determination of environmental impact. The applicant shall pay a fee established under chapter 18.76 and a deposit established by resolution of the City Council. An application for initial study shall not be deemed accepted until all required information has been received."

SECTION 7: Section 19.81.220 of Chapter 19.81 of the Imperial Beach Municipal Code is amended to read as follows:

"19.81.220. Extension application--Filing.

An application for an extension shall be made no sooner than sixty days and no later than thirty days prior to the expiration date of original approval. If the community development department, planning commission or city council as appropriate has not acted on an extension application prior to the project expiration date, the applicant shall not be deemed to have an approved extension application, but the original project approval shall be deemed not to have expired until the time when the extension application has been acted upon. Application for an extension of a site plan review shall be in accordance with the requirements established by the Community Development Department. ~~The extension application shall be accompanied by the payment of fees established by city council resolution.~~"

SECTION 8: Section 19.82.070(C) of Chapter 19.82 of the Imperial Beach Municipal Code is repealed.

SECTION 9: Section 19.83.080 of Chapter 19.83 of the Imperial Beach Municipal Code is amended to read as follows:

"19.83.080 Appeals.

A. Notice of Appeal--Ministerial Projects. Within ten days after a decision of the Community Development Department, any person may ~~upon payment of a fee established by resolution of the city council~~, appeal to the Design Review Board the decision of the Community Development Department. The appellant shall file a notice of appeal with the City Clerk who shall immediately transmit a copy to the Community Development Department and the applicant (in the event the appellant is not the applicant). The notice of appeal shall specify the person making the appeal, the decision appealed from, and shall state in clear and concise language the reasons for the appeal. After the hearing on an appeal, the Design Review Board may refer the matter back to the Community Development Director for further consideration, or may reverse, affirm, or modify the decision of the Community Development Department and may make such decision as the facts may warrant."

SECTION 10: Section 19.83.100 of Chapter 19.83 of the Imperial Beach Municipal Code is amended to read as follows:

"19.83.100. Extension application--Filing.

An application for an extension shall be made no sooner than sixty days and no later than thirty days prior to the expiration date of original approval. If the Community Development Department, Design Review Board or City Council as appropriate has not acted on an extension application prior to the project expiration date, the applicant shall not be deemed to have an approved extension application, but the original project approval shall be deemed not to have expired until the time when the extension application has been acted upon. Application for an extension of a design review shall be in accordance with the requirements established by the Community Development

19.88.020. Deposits established by resolution.

A person requesting services under this title must make a deposit with the city treasurer, toward the fees for the requested services. The amounts of the deposits are established by resolution of the city council.

19.88.030. Deposit adjustment.

A. If the actual cost of providing a service under this title is less than the amount deposited, the city treasurer will refund any amount remaining in the deposit.

B. If the actual cost of providing a service under this title is more than the amount deposited, the person requesting the service must pay to the city treasurer an amount equal to the deficiency. If the person fails to pay the deficiency upon demand by the city treasurer, the city may recover the deficiency in a court of competent jurisdiction. Until the deficiency is paid in full, the project for which the service was requested is considered incomplete."

SECTION 18: This ordinance shall become effective when it is determined to be a minor amendment by the Executive Director of the California Coastal Commission but not sooner than sixty (60) days following its passage and adoption by the City Council.

Appeal Process under the California Code of Civil Procedure (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

PROTEST PROVISION: The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on a development project begins on the date of the issuance of a permit or decision.

19.52.240. General permit procedures.

The following procedures shall govern the application for, and the issuance of, all sign permits under this code, and the submission and review of Signage Plans and Comprehensive Signage Plans:

A. Applications.

All applications for sign permits of any kind shall be submitted to the Community Development Department on an application form or in accordance with the application specifications published by the Community Development Department.

B. Fees.

~~Each application for a sign permit or for approval of a Signage Plan or Comprehensive Signage Plan shall be accompanied by the applicable fees, which shall be established by resolution of the City Council.~~

C. Completeness.

Within five days of receiving an application for a Signage Plan or a Comprehensive Signage Plan, the Community Development Department shall review it for completeness. If the Community Development Department finds that it is complete, the application will then be processed. If the Community Development Department finds that it is incomplete, the Community Development Department shall, within such five-day period, send the applicant a notice of specific ways in which the application is deficient, with appropriate references to the applicable sections of this code.

D. Action.

Within seven days of the submission of a complete application for a sign permit, Signage Plan, or Comprehensive Signage Plan the Community Development Department shall either:

1. Issue the sign permit if the sign(s) that is the subject of the application conforms in every respect with the requirements of this code and of the applicable Comprehensive Signage Plan; or,
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this code or of the applicable Plan with which the sign(s) is inconsistent.

E. Action on Plan.

1. On any application for approval of a Signage Plan or Comprehensive Signage Plan, the Community Development Department shall take action as applicable on the following dates:

a. Seven business days after the submission of a complete application if the application is for signs for existing buildings; or,

b. On the date of final action on any related application for building permit, Site Plan Review, Design Review, Conditional Use Permit, or any other official plan required by the City for the proposed development.

2. On or before such applicable date, the Community Development Department shall either:

a. Approve the proposed plan if the sign(s) as shown on the plan and the plan itself conforms in every respect with the requirements of this code; or,

b. Reject the proposed plan if the sign(s) as shown on the plan or the plan itself fails in anyway to conform with the requirements of this code. In case of a rejection, the Community Development Department shall specify in the rejection the section or sections of the code with which the plan is inconsistent. (Ord. 94-884, 1994)

Attachment 2

Imperial Beach de minimis LCPA 3-2002

Planning and Zoning Fees

Proposed Ordinance Sections to be Deleted

~~E. Each application shall be accompanied by a filing fee as established by resolution of the City Council.~~

F. No application from one or more property owners of the same property, or essentially the same property, which has been denied by the Planning Commission or City Council shall be accepted by the Community Development Department within twelve months of such denial; provided, however, that the Planning Commission or City Council may permit the processing of such application by the affirmative vote of a majority of their members.

G. Where the application omits property which could be considered to form a logical extension or completion of existing or proposed zone boundaries, the Community Development Department shall have the discretion to include such property in the notice of hearing on such application, provided such property represents not more than twenty-five percent of the total area under consideration for rezoning. Notice of hearing shall include the information that the Planning Commission will consider reclassification of other property than that for which application is made.

H. An application may be refused to be accepted by the Community Development Department unless it complies with the requirements of this Chapter and unless it is completely filled out. (Ord. 601 § 1 (part), 1983; Ord. 94-884, 1994)

~~19.87.020. Coastal Development Permit--Fees.~~

~~A fee schedule for Coastal Development Permits is established in amounts sufficient to cover City costs of processing. This amount shall be established by resolution of the City Council. (Ord. 601 § 1 (part), 1983; Ord. 94-884, 1994)~~