

## CALIFORNIA COASTAL COMMISSION

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# Th16f



**Prepared July 19, 2012 (for August 9, 2012 Hearing)**

**To:** Commissioners and Interested Persons

**From:** Madeline Cavalieri, District Manager  
John Akeman, Coastal Planner

**Subject: Santa Cruz County LCP Amendment Number 1-12 Part 4 (Level 4 Permits)**

### **Proposed Amendment**

Santa Cruz County is proposing to modify certain Local Coastal Program (LCP) application noticing and appeal procedures, primarily related to Level 4 (i.e., no public hearing required) permit applications. The changes proposed are to the main procedural chapter of the LCP (Chapter 18.10), as well as to the minor exceptions section of Chapter 13.10 (the latter section having recently been approved by the Commission on April 12, 2012). The changes proposed in Chapter 18.10 would eliminate certain descriptive text and add other new text, and would overall simply clarify the process for noticing and appeals of permit actions. In Chapter 13.10, the changes proposed are limited to eliminating the stand alone noticing and appeal text for minor exceptions, and replacing it with a reference to the noticing and appeal provisions of Chapter 18.10. See Exhibit A for the proposed changes.

### **Minor LCP Amendment Determination**

Pursuant to California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is “minor”. CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

*CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.*

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if one-third of the appointed members of the Commission do not object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately (in this case, on August 9, 2012).

**The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is minor.**

The proposed changes are strictly procedural in nature, and provide enhanced clarity regarding noticing and appeal provisions (where the latter changes are limited to the local appeal process and not to Commission appeals). County staff is currently in discussions with Commission staff more broadly on potential clarifying updates to the LCP's procedural sections, including the interplay between the LCP's main coastal permit related chapter (Chapter 13.20) and Chapter 18.10. In the interim, the changes proposed are minor and do not significantly alter the ways in which the LCP's noticing and appeal provisions are applied. With the changes, the LCP will continue to effectively maximize public participation through effective noticing, and will continue to provide appropriate provisions for challenges of permit decisions.

### **California Environmental Quality Act (CEQA)**

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. The County adopted a Negative Declaration for the amendment under CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

### **Coastal Commission Concurrence**

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its August 9, 2012 meeting at the Santa Cruz County Board of Supervisors Chambers at 701 Ocean Street in Santa Cruz. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact John Akeman at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed minor LCP amendment determination, please do so by August 3, 2012.

### **Procedural Note - LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on July 9, 2012. It is IP only and the 60-day action deadline is September 7, 2012. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until September 7, 2012 to take a final action on this LCP amendment.

### Exhibits:

Exhibit A: Proposed Amendments

## LCP Amendment SCO-1-12 Part 4

Subdivision (c)3 of Section 13.10.235, "Minor Exceptions," of the Santa Cruz County Code, is hereby amended, to read as follows:

3) Noticing. ~~Not less than 21 days prior to the County taking action on an application for a minor exception, notice of the pending decision shall be posted on the County of Santa Cruz Planning Department Website and shall also be sent to owners and occupants of property adjacent to the subject parcel and within 100 feet of the subject parcel. The notice shall include the date after which a decision will be made on the project, the final date on which comments will be accepted, and information regarding the appeal process. The contents of the notice shall be consistent with 18.10.222(d).~~ Noticing shall be as provided by Sections 18.10.222 and 18.10.224.

Subdivision (c)6 of Section 13.10.235, "Minor Exceptions," of the Santa Cruz County Code, is hereby amended, to read as follows:

6) Appeal. ~~The determination on the minor exception may be appealed by any person whose interests are adversely affected. Appeals shall be heard at a public hearing before the Zoning Administrator, or by the Planning Commission if the Planning Director determines this to be in the public interest. A notice of the public hearing for the appeal shall be sent to all property owners and occupants within 300 feet of the subject property, and to local agencies that provide essential services to the subject parcel, at least 10 days prior to the hearing. A notice shall also be posted on site in accordance with Section 18.10.224. As is consistent with Section 18.10.340, any person whose interests are adversely affected by an appeal determination of the Zoning Administrator may appeal the decision to the Planning Commission, and any person whose interests are adversely affected by an appeal determination of the Planning Commission may appeal the decision to the Board of Supervisors. Appeals shall be conducted in accordance with Section 18.10.310. The procedures for appeals shall be as provided by sections 18.10.310 and 18.10.324.~~

Article V, "Noticing Procedures" of the subdivision "Sections:" found at the start of Chapter 18.10, "Chapter 18.10 PERMIT AND APPROVAL PROCEDURES," of the Santa Cruz County Code, is hereby amended to read as follows:

### Article V. Noticing Procedures

- 18.10.221 Level I (~~No Plans~~) through Level III (Field visit) – Public listing.
- 18.10.222 Level IV (Public Notice) – Notice of application submittal pending action.
- 18.10.223 Level V (Zoning Administrator) through Level VII (Board of Supervisors) – Notice of public hearing.
- 18.10.224 Notice of proposed development for Level IV through Level VII.
- 18.10.230 Findings required.
- 18.10.240 Permit conditions.

Article VI, "Appeal Procedures," of the subdivision "Sections:" found at the start of Chapter 18.10, "Chapter 18.10 PERMIT AND APPROVAL PROCEDURES," of the Santa Cruz County Code, is hereby amended to read as follows:

- 18.10.310 General appeal procedures.
- 18.10.320 Appeals to Planning Director—From Level I (~~No Plans~~) through Level IV (~~Public Notice~~)III (Field visit).
- 18.10.324 Appeals to Zoning Administrator—From Level IV (Planning).
- 18.10.330 Appeals to Planning Commission—From Level V (Zoning Administrator).
- 18.10.332 Planned Unit Development—Hearings.
- 18.10.340 Appeals to Board of Supervisors—From Level VI (PC).
- 18.10.350 Special consideration by Board of Supervisors.
- 18.10.360 Appeals to Coastal Commission.

Subdivision (a) of Section 18.10.112, "Processing levels," of the Santa Cruz County Code, is hereby amended to read as follows:

- (a) Administrative Permits and Approvals. The following reviews shall be conducted and permits shall be acted upon by the Planning Director or his or her authorized designee charged with the administration of this Chapter.
- (1) Processing Level I (~~No plans required~~) includes planning review and administrative action on permits based on a description of the project.
  - (2) Processing Level II (Plans required) includes planning review and administrative action on permits based on building plans as well as a description of the project.
  - (3) Processing Level III (Field visit required) includes planning review that involves one or more visits to the site by staff planners in conjunction with review of the project description and plans prior to administrative action on permits.
  - (4) Processing Level IV (Public Notice) includes those projects for which plans are required, field visits are conducted, and for which public notice is provided prior to administrative action on permits – in the form of a mailed notice of applicant's submission to property owners and occupants, posting of the property, a published newspaper announcement of the pending project – notice posted on the County Planning Department website, notice to each member of the Board of Supervisors, and a mailed notice to the owners and occupants of the subject and surrounding properties surrounding property and occupants, including occupants of the subject property, prior to administrative action on permits.

Table 18.10.121 of Section 18.10.121 "Summary chart of review process," of the Santa Cruz County Code, is hereby amended to read as follows:

<b>Table 18.10.121</b>							
<b>SUBMITTALS REQUIRED</b>	<b>PROCESSING LEVEL</b>						
(See Section 18.10.210)	1	2	3	4	5	6	7
Application form, fee project description	X	X	X	X	X	X	X
Plot plan, building plans		X	X	X	X	X	X
Site development plans		X	X	X	X	X	X
Results of neighborhood meeting (see Sections 18.10.210 and 18.10.211)						X	X
Further information if needed after initial staff review	X	X	X	X	X	X	X
<b>PUBLIC NOTICES REQUIRED</b>	<b>PROCESSING LEVEL</b>						
(See Sections 18.10.221 through 18.10.223)	1	2	3	4	5	6	7
<del>Notice of application submittal mailed by County to owners of property within 300 feet and to occupants within 100 feet</del>				X			
List of official action	X	X	X				
<del>Legal advertisement-Notice of pending action posted on County Planning Department website</del>				X			
Notice of pending action or public hearing posted on <u>project</u> site				X	X	X	X*
Notice of proposed development sign placed on site by applicant				X	X	X	X
Notices of pending action or public hearing mailed by County to owners of property within 300 ft and to occupants within 100 feet and to the subject property				X	X	X	X*
Legal advertisement of public hearing					X	X	X*
* Required for both Planning Commission and Board of Supervisors hearings							
<b>APPROVING BODY</b>	<b>PROCESSING LEVEL</b>						
(See Section 18.10.112)	1	2	3	4	5	6	7
Planning Director or designated person	X	X	X	X			
Zoning Administrator					X*		
Planning Commission						X*	X
Board of Supervisors							X*

\* and California Coastal Commission if appealed

Section 18.10.222, "Level IV (Public notice)—Notice of application submittal," of the Santa Cruz County Code, is hereby amended to read as follows:

**18.10.222 Level IV (Public notice) — Notice of ~~application submittal~~ pending action.**

~~(a) Procedures. Public notice of the receipt of a development application pursuant to Level IV. Public notices shall be given in the following ways:~~

~~(1) The County shall mail a notice in the form of a postcard or letter not more than ten calendar days following the receipt of a development application to the applicant and to the owners of all property within three hundred (300) feet of the exterior boundaries of the property involved in the application, and to all lawful occupants of properties within one hundred (100) feet of the subject property, including all lawful occupants of the subject property. Such notices and mailing list shall be based on the mailing list generated by the County.~~

~~In the event that there are fewer than ten (10) separate parcels within three hundred (300) feet of the exterior boundaries of the property involved in the application, said three hundred (300) foot distance shall be extended in increments of fifty (50) feet (e.g., 350, 400, 450) until owners of at least ten (10) properties have been notified by mail.~~

~~(2) Notice to the Board of Supervisors. Notice shall be by delivery by the United States Postal Service, addressed to each Board Member at the County Governmental Center, or by delivery to each Board Member by County Government interdepartmental mail no more than ten (10) calendar days following the receipt of a development application.~~

~~(b) Contents of Notice. The content of the notice shall be as follows:~~

- ~~(1) Location of the proposed project;~~
- ~~(2) Name of the applicant;~~
- ~~(3) Description of the proposed use;~~
- ~~(4) How further information may be obtained and how to submit information on the proposed project;~~
- ~~(5) Final date on which comments will be accepted;~~
- ~~(6) How to submit information on the proposed project;~~
- ~~(7) Date the permit is proposed to be issued.~~

~~NOTICE OF PENDING ACTION~~

~~(e)(a) Procedures. Public notice of the intent to issue pending action on a permit application pursuant to Level IV. Not less than twenty-one (21) calendar days prior to the County taking action on a Level IV application, Public notice shall be given in the following ways:~~

- ~~1. The County shall mail Mailed notice in the form of a via postcard or letter mailed not less than ten (10) calendar days prior to the issuance of the permit to the applicant, to the owners of the subject property, and to the owners of all~~

property within three hundred (300) feet of the exterior boundaries of the ~~subject property involved in the application~~, and to all lawful occupants of properties within one hundred (100) feet of the subject property, including all lawful occupants of the subject property. Such notices and mailing list shall be based on a mailing list generated by the County. In the event that there are fewer than ten (10) separate parcels within three hundred (300) feet of the exterior boundaries of the property involved in the application, said three hundred (300) foot distance shall be extended in increments of fifty (50) feet (e.g., 350, 400, 450) until owners of at least ten (10) properties have been notified by mail.

2. ~~Published Notice. Notice shall be published in a newspaper of general circulation printed and published within the County at least ten (10) calendar days prior to the issuance of the permit. Posting on the County of Santa Cruz Planning Department website.~~

3. ~~Posting on the property in a conspicuous place, at least ten (10) calendar days prior to the issuance of the permit.~~

43. Notice to the Board of Supervisors. Notice shall be delivered by the United States Postal Service, addressed to each Board Member at the County Governmental Center, or by delivery to each Board Member by County Government interdepartmental mail.

(b) Not less than ten (10) calendar days following the date of the United States Postal Service postmark on the Notice of Pending action mailed pursuant to (a)1 in the preceding paragraph, the Notice of Pending Action shall be posted on the property in a conspicuous place.

(d) Contents of Notice. The contents of the notice shall be as follows:

- (1) ~~4~~Location of the proposed project.
- (2) Name of the applicant and owner.
- (3) Description of the proposed ~~use~~ project.
- (4) How further information may be obtained and how to submit information on the proposed project.
- (5) Final date on which comments will be accepted, which shall be no less than 21 days following the date on which notices are mailed.
- (5) ~~6~~ Date ~~the permit will be issued~~ on which a decision may be made on the project.
- (6) ~~7~~ Description of the ~~administrative~~ appeal procedure.

Section 18.10.320, Appeals to Planning Director—from Level I (No Plans) through Level IV (Public Notice)," of the Santa Cruz County Code, is hereby amended to read as follows:

**18.10.320 Appeals to Planning Director—from Level I (No Plans) through Level IV (Public Notice) Level III (Field Visit).**

(a) Who May Appeal. Any decisions or actions of any staff person charged with the administration of this chapter may be administratively appealed to the Planning Director. Such an appeal may be initiated by the applicant by submitting a written request to the Planning Director within fourteen (14) calendar days of the decision, ~~in the case of permits issued pursuant to Level I (No Plans) through Level III (Field Visit), and by any aggrieved person or the applicant by submitting a written request to the Planning Director within fourteen (14) calendar days from the date of the publication of the notice of pending action, or the date the notices are mailed, whichever is later, in the case of permits issued pursuant to Level IV (Public Notice).~~

(b) Planning Director's Action. The Planning Director shall commence consideration of every appeal filed pursuant to this ~~Chapter~~ Section from acts or determinations at Levels I- ~~IV~~III by reviewing the application file within twenty (20) business days of the submittal of the appeal. The Planning Director may decide the appeal on the basis of the written appeal, or may review the appeal with the applicant and/or the appellant. The decision of the Planning Director on the appeal shall be made in writing, and shall be provided to the applicant and/or the appellant within sixty (60) calendar days of the submittal of the appeal, unless the appellant agrees, in writing, to a longer period. (Ord. 746, 1/8/62; 1704, 4/25/72; 3639, 3/26/85; 4044, 1/9/90; 4075, 6/24/90; 4500-C, 8/4/98)

Section 18.10.324, "Appeals to the Zoning Administrator from Level IV (Public Notice)," of the Santa Cruz County Code, is hereby added after Section 18.10.320, to read as follows:

**18.10.324 Appeals to Zoning Administrator—From Level IV (Public Notice).**

(a) Who May Appeal. Any person whose interests are adversely affected by a Level IV decision or action may appeal the decision to the Zoning Administrator. Such an appeal may be initiated by submitting a written request to the Planning Director within fourteen (14) calendar days of the decision.

(b) Notice of Hearing. Upon receipt of a notice of appeal from a decision or action at Level IV, the Planning Director or designee shall schedule a hearing to occur before the Zoning Administrator or, if public concern or other circumstances warrant, the Planning Commission. The date of the scheduled hearing shall be no more than sixty (60) calendar days after the date on which the notice of appeal is received. If no regular meeting of the Zoning Administrator (or Planning Commission, if applicable) is scheduled to occur within 60 calendar days after the date of receipt of the notice of appeal, the scheduled hearing date shall be that of the next regular meeting of the applicable body. Written notice of the time and place set for hearing the appeal shall be given to the appellant and the original applicant, if he or she is not the appellant, at least twenty-one (21) calendar



days prior to the hearing. Public notice of an appeal hearing before the Zoning Administrator shall be given as provided by 18.10.222. Decisions by any reviewing body on the appeal shall be made in writing and shall be provided to the applicant and/or the appellant.

(c) Any person whose interests are adversely affected by a decision or action of the Zoning Administrator on an appeal of a Level IV determination may appeal the decision to the Planning Commission. Level IV appeals to the Planning Commission, whether direct or following an appeal reviewed by the Zoning Administrator, shall be processed as prescribed by 18.10.330.

(d) Any person whose interests are adversely affected by an appeal decision or action of the Planning Commission regarding a Level IV determination may appeal the decision to the Board of Supervisors. Level IV appeals to Board of Supervisors shall be processed as prescribed by 18.10.340.

Subdivision (b) of Section 18.10.330, "Appeals to Planning Commission—From Level V (Zoning Administrator)," of the Santa Cruz County Code, is hereby amended, to read as follows:

(b) Notice of Hearing. Upon receipt of a notice of appeal from a decision or action at Level V, the matter shall be set for hearing. Planning Director or designee shall schedule a hearing to occur before the Planning Commission not later than thirty (30) calendar days following the date on which the notice was filed. The date of the scheduled hearing shall be no more than 60 calendar days following the date of receipt of the notice of appeal. If no regular meeting of the Planning Commission is scheduled to occur within 60 calendar days after receipt of the notice of appeal, the scheduled hearing date shall be that of the next regular meeting of the Planning Commission. Written notice of the time and place set for hearing the appeal shall be given the appellant and the original applicant, if he or she is not the appellant, at least ten-twenty-one (21) calendar days prior to the hearing. Public notice of the appeal hearing shall be given in the same manner as required for the original action appealed from, except that no large sign or signs regarding the appeal hearing shall be required pursuant to section 18.10.224.

Subdivision (e)1 of Section 18.10.340, "Appeals to Board of Supervisors—From Level VI (PC)" of the Santa Cruz County Code, is hereby amended, to read as follows:

1. If the Board, by a majority vote, determines to take jurisdiction for further review, the Board shall direct that a public noticed hearing on the matter shall be set within thirty (30) calendar days of the decision to take jurisdiction, and the Planning Director or designee shall schedule a public hearing before the Board. The date of the scheduled hearing shall be no more than 60 calendar days following the decision to take jurisdiction. If no regular meeting of the Board of Supervisors is scheduled to occur within 60 calendar days after the decision to take jurisdiction, the scheduled hearing date shall be that of the next regular meeting of the Board of Supervisors. the appellant,

~~affected property owners and occupants, and interested persons shall be provided with the written and published notice that would be required for a hearing on such matter before the Planning Commission.~~ Written notice of the time and place set for hearing the appeal shall be given to the appellant – and to the original applicant, if he or she is not the appellant – at least twenty-one (21) calendar days prior to the hearing. Public notice of the hearing shall be given in the same manner as required for the original action appealed from, except that no large sign or signs regarding the appeal hearing shall be required pursuant to section 18.10.224, and no neighborhood meeting regarding the appeal hearing shall be required pursuant to section 18.10.211.