



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

FROM: Robert V. Wadden Jr., City Attorney

DATE: October 7, 2008

SUBJECT: Introduce and Waiver Further Reading of Ordinance No. 2118 Amending The Title 10 Appeal Process and Application of Robert's Rules of Order

RECOMMENDATION:

Staff recommends that the City Council introduce and waive further reading of Ordinance No. 2118 which amends the Title 10 Appeal Process and Application of Robert's Rules Of Order.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action

BACKGROUND:

At the City Council meeting on September 2 the Council discussed issues and concerns regarding the Title 10 Appeal process and directed staff to come back with an ordinance which clarified some of the ambiguities and inconsistencies in the code.

DISCUSSION:

The proposed ordinance amends Manhattan Beach Municipal Code section 2.01.080 to require a four fifths majority vote of the Council to allow a deliberate override of the provisions of Robert's Rules of Order. The code section retains the original language which exonerates the effect of inadvertent violations of Robert's.

The proposed ordinance also amends Manhattan Beach Municipal Code section 10.100.040 to require two council members to initiate an appeal with regard to any matter for which there is a legal requirement of a noticed public hearing. Non public hearing items may still be appealed by a single council member and discussed at the same meeting. The section is also amended to remove the certification of non-bias requirement while still including language that establishes a presumption of non-bias by appealing Council members.

Finally the proposed ordinance amends Manhattan Beach Municipal Code section 10.100.070 to establish that any project which is appealed, regardless of the outcome of the appeal may not be re-proposed for two years.

cc: Geoff Dolan, City Manager
Richard Thompson, Director of Community Development

ORDINANCE NO. 2118

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTIONS 2.01.080, 10.100.040 AND 10.100.070 REGARDING CITY COUNCIL PROCESS AND TITLE 10 APPEALS

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Manhattan Beach City Council hereby finds as follows:

- a. In order to clarify and avoid inconsistencies in the appeal process for decisions and permits issued or denied under Title 10 of the Municipal Code it is in the best interests of the health, safety and welfare of the citizens of Manhattan Beach to make the alterations in the code which the Council directed at its meeting on September 2, 2008.

SECTION 2. Sections 2.01.080, 10.100.040, and 10.100.070 of the Manhattan Beach Municipal Code are hereby amended in their entirety to read as follows:

2.01.080 Parliamentary procedure.

Except as may be otherwise provided by law, the proceedings of the Council shall be governed by Robert's Rules of Order. It shall be the duty of the Mayor or Mayor tempore to reasonably adhere to and enforce such rules, provided, however, that an inadvertent failure to observe or enforce such rules shall in no manner affect the regularity, validity or legality of any action or proceeding taken by the Council. However, should the Council desire to intentionally or knowingly violate the provisions of Robert's Rules of Order a four fifths majority vote shall be required.

10.100.040 Initiation of appeals.

A. An appeal filed by the applicant or interested party may be initiated by delivering to the City Clerk a written notice of appeal and any required appeal fee. The notice of appeal shall specify the basis for the appeal.

B. The Mayor or any member of the City Council may appeal any matter under this Chapter which does not legally require a noticed public hearing by requesting a public hearing on the appeal within the time limit set forth in Section 10.100.030. if a matter to be appealed legally requires a noticed public hearing an appeal may be made by a vote of two members of the City Council to set a matter for a future appeal hearing. The Mayor or City Council members appealing any matter under this Section shall only do so if the appeal is made in the public interest or welfare and the appealing council member has no predisposition for or against the matter being appealed.

C. Decisions that are appealed shall not become effective until the appeal has been resolved or withdrawn.

10.100.070 New appeal.

Following a decision on an appeal, any matter that is the same or substantially the same shall not be considered by the same body within two (2) years, unless the denial is made without prejudice.

SECTION 3. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 4. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 5. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby designated for that purpose.

PASSED, APPROVED, and ADOPTED this 21st day of October, 2008.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk