AGENDA ITEM NO.
I-1

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. 2840

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING THE TITLE OF ARTICLE II OF CHAPTER 1 OF THE OXNARD CITY CODE AND ADDING ARTICLE V TO CHAPTER 1 OF THE OXNARD CITY CODE CONCERNING ADMINISTRATIVE HEARINGS

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The City Council of the City of Oxnard does ordain as follows:

Part 1. The title of Article II of Chapter 1 of the Oxnard City Code is hereby amended to read as follows:

"ARTICLE II. UTILITY BILLING HEARINGS; CRIMINAL VIOLATIONS OF CODE"

Part 2. Article V is hereby added to Chapter 1 of the Oxnard City Code to read as follows:

"ARTICLE V. ADMINISTRATIVE HEARINGS

"SEC. 1-55. ADMINISTRATIVE HEARINGS.

Unless otherwise specifically set forth in this code, the procedures set forth in sections 1-55 through 1-61 of this code shall be followed for the denial, suspension, modification, or revocation of a permit applied for or held pursuant to any provision of this code if the denial, suspension, modification, or revocation of such permit involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this code or any rules, regulations, policies, or procedures adopted by the city council or the city manager.

SEC. 1-56. RULES AND REGULATIONS.

The city manager may adopt written rules, regulations, policies, and procedures that are consistent with the intent or provisions of this article, as may be necessary or desirable to aid in the administration or enforcement of the provisions of this code.

SEC. 1-57. HEARING OFFICER.

The city manager shall appoint persons to serve as administrative hearing officers.

SEC. 1-58. APPEAL PROCEDURE.

(A) City staff shall mail notice of a proposed denial, suspension, modification, or revocation of any permit applied for or held to the applicant or permittee, stating the reasons for the denial, suspension, modification, or revocation of any permit applied for or held. The notice shall inform the applicant or permittee that the permit will be denied, suspended, modified, or revoked and the applicant or permittee will be deemed to concur with such action if the applicant or permittee does not make a written request for a hearing as provided in subsection (B) of this section.

(B) The applicant or permittee may make a written request for a hearing. The request must be received by the party who signed the notice within 14 days of the date of the notice and be accompanied by the hearing fee set by resolution of the city council. A copy of the notice shall be attached to the request for hearing, and the request for hearing shall state the reasons that the permit should not be denied, suspended, modified, or revoked.

(C) If a timely request for hearing, accompanied by the hearing fee, is received by the party who signed the notice, the hearing shall be conducted as set forth in section 1-59 of this code. If such a request is not so received, the party who signed the notice shall mail to the applicant or permittee a notice that the permit is denied, suspended, modified, or revoked.

(D) The party who receives the request for hearing shall send the request to the hearing officer, and the hearing officer shall set the matter for hearing. At least ten days before the hearing, the hearing officer shall mail written notice of the date, time, and place of the hearing to the applicant or permittee.

(E) Unless otherwise provided by this code, the filing of a request for hearing shall stay all proceedings in furtherance of the notice appealed from until the determination of the appeal as provided herein.

SEC. 1-59. CONDUCT OF HEARING.

(A) At the hearing officer's discretion or upon good cause shown, the hearing officer may continue the hearing by written notice before the scheduled hearing date or orally at or during the hearing.

(B) The hearing shall be open to the public.

(C) A representative of the city shall first present evidence to justify the proposed denial, suspension, modification, or revocation of a permit. Thereafter, the applicant or permittee may present evidence. The burden of proof to justify the denial, suspension, modification, or revocation is on the city.

(D) The hearing officer shall conduct the hearing in an informal fashion and shall not be bound by the technical rules of evidence.

(E) The hearing officer may continue any hearing to request additional information from city staff, the applicant, or the permittee prior to issuing a written decision. The hearing officer is not required to continue the hearing on the date the administrative hearing is held. A hearing is not concluded until the hearing officer receives any additional information requested pursuant to this subdivision.

(F) Unless otherwise provided in this code, if the applicant or permittee fails to appear for the hearing at the time and place noticed, the hearing officer in his or her discretion may conduct the hearing to a conclusion or may dismiss the appeal. If the appeal is dismissed, the notice appealed from shall become final and effective on the date of the hearing. Upon a showing of good cause, the hearing officer may set aside his or her decision or dismissal upon the applicant's or the permitee's failure to appear and may reschedule the appeal for hearing.

SEC. 1-60. HEARING OFFICER AUTHORITY.

(A) At the request of the city, applicant, or permittee, the hearing officer shall, on behalf of the city, issue subpoenas for attendance of witnesses at the hearing.

(B) At the request of the city, applicant, or permittee, the hearing officer shall, on behalf of the city, issue orders for the production of documents on a date certain. In no event shall the date for the production of documents be less than 15 days after the date the order was issued.

(C) The hearing officer may affirm or reverse the notice appealed from.

(D) The hearing officer shall not have authority to waive any requirements of this code or any other law, rule, or regulation.

SEC. 1-61. DECISION.

(A) Within 15 days of the conclusion of the hearing, the hearing officer shall issue and mail to the applicant or permittee a written decision containing a statement of the reasons on which the decision is based and which decision shall be final and effective on the date issued. Within the decision, the hearing officer shall include a statement that the time in which judicial review may be sought is governed by Cal. Code of Civil Procedure section 1094.6. The hearing officer shall give such decision to appropriate city staff, who shall keep the decision with the notice of proposed denial, suspension, modification, or revocation of any permit applied for or held.

(B) The applicant or permittee may seek judicial review of the decision of the hearing officer in accordance with Cal. Code of Civil Procedure, sections 1094.5 and 1094.6."

Part 3. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. 2840 was first read on June 14, 2011 and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

_____
Dr. Thomas E. Holden, Mayor

ATTEST:

_____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

for

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Alan Holmberg, City Attorney 6·3·11