

ORDINANCE NO. 265-2022

**AN ORDINANCE AMENDING CHAPTER 10, SECTION 10-3.5 OF THE CLEARLAKE MUNICIPAL CODE
RELATED TO APPEALING ABATEMENT ORDERS TO THE CITY COUNCIL**

WHEREAS, the City Council desires to update procedures related to the judicial review of administrative hearing decisions;

WHEREAS, Section 1-9.8 needs to be amended to clarify the procedures that govern judicial review;

NOW, THEREFORE, the City Council of the City of Clearlake, State of California does ordain as follows:

SECTION 1. FINDINGS.

- A. The above recitals are declared to be true and correct findings of the City Council of the City of Clearlake.

SECTION 2.

Chapter 10, Section 10-3.5, is hereby repealed as replaced as follows:

10-3.5 Appeal to City Council.

a. The Hearing Officer's order may be appealed to the City Council by filing an appeal with the City Clerk within seven (7) days of the date of service of the Hearing Officer's decision. The appeal shall contain:

1. A specific identification of the subject property;
2. The names and addresses of all appellants;
3. A statement of appellant's legal interest in the subject property;
4. A statement in ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts in support thereof;
5. The date and signature of all appellants; and
6. The verification of all appellants as to the truth of the matters stated in the appeal, signed under penalty of perjury.
7. The appeal shall be accompanied by the fee required for the taking of any such appeal, which fee shall be set by City Council resolution. The City Council shall have the discretion to waive or modify the appeal fee if the responsible person demonstrates that no public nuisance existed at the time the notice to abate was issued.

b. As soon as practicable after receiving the appeal, the City Clerk shall set a date for the City Council to hear the appeal which date shall be no less than seven (7) days nor more than thirty (30) days from the date the appeal was filed. The City Clerk shall give each appellant written notice of the time and the place of the hearing at least five (5) days prior to the date of the hearing, either by causing a copy of the notice to be delivered to the appellant personally or by mailing a copy thereof (if the notice is mailed, City shall provide appellant an additional five calendar days of notice before the date of the hearing),

postage prepaid, addressed to the appellant at the address shown on the appeal. Continuances of the hearing may be granted by the City Council on request of the owner for good cause shown, or on the City Council's own motion.

c. If the City Council finds from the relevant evidence that a public nuisance exists and the notice of abatement was in conformance with the provisions of this chapter, it shall require the responsible person to comply with the order of abatement within thirty (30) calendar days after the date of mailing of the City Council's decision to the responsible person, unless a longer period of time to abate the nuisance is specifically authorized by the City Council.

d. The following will apply to the hearing procedure before the City Council:

1. At the time and place set for the appeal, the City Council shall hold a de novo hearing and shall afford the appellant and other interested parties a reasonable opportunity to be heard in connection therewith.
2. To allow appellants the opportunity to fully present their arguments, the formal rules of evidence shall not apply and all relevant evidence may be considered. However, the City Council has the discretion to exclude irrelevant evidence, i.e., evidence that does not pertain to the issue(s) on appeal. The City Council also has the discretion to exclude evidence it deems unnecessarily repetitive.

SECTION 2. Severability: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 3. CEQA. The adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting the entire text.

INTRODUCED and first read at a regular meeting of the City Council on the ____ day of ____, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

FINAL PASSAGE AND ADOPTION by the City Council of Clearlake occurred at a meeting thereof held on the ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dirk Slooten, Mayor

ATTEST:

Melissa Swanson, City Clerk
City of Clearlake