

ORDINANCE AMENDING TITLE III, DIVISION 1, CHAPTERS 2 AND 4 OF HUMBOLDT COUNTY CODE SECTIONS 312-6, 312-10, 312-11, 312-13, 312-16, 312-50, AND 314-91

ORDINANCE NO. 2769

NOW, THEREFORE, the Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. PURPOSE OF ZONING REGULATION AMENDMENTS.

Title III, Division 1, Chapter 2 of the Planning Regulations: addressing Section 312-6 - Processing Applications for Permits and Variances, amending subsection 6.7.2 to rename "Notices of Final Action" to "Notices of Decision" to better reflect State law regarding such notices and their appealability and to establish a distinction between notices provided as a result of a Board of Supervisors' decision and notices provided as a result of any other decisions associated with the Planning and Building Department, and amending subsection 6.7.2 to allow electronic delivery of a Notice of Decision; addressing Section 312-10 - Rights Attached to Permits and Variances, Section 312-11 - Minor Deviations, Modifications and Extensions, and Section 312-16 - De Minimis Waivers from Coastal Development Permit Requirements, amending subsections 10.2.2, 11.3.1, and 16.4.6 to match the "Notice of Decision" language established in Section 6.7 and remove the word "final," and amending Section 16.4 to establish that it is dependent on Section 6.7 and utilizes the same procedures as associated with Notices of Decision; addressing Section 312-13 - Appeal Procedures, amending Section 13.7 to remove its dependence on Section 6.7 and to specify delivery of a Notice of Final Action on an appeal must be by first class mail; addressing Section 312-13 - Appeal Procedures, amending Section 312-13.12 to refer to "final local action notice," instead of "notice of final action," thus better matching the typical terminology used by the California Coastal Commission; and addressing Section 312-50 - Amendments to the Zoning Regulations and Zoning Maps to additionally reference Section 65854, thus communicating that Zoning Ordinances and amendments thereof must have notices that are published at least 20 days prior to the hearing if said ordinance or amendment affect the permitted uses of real property.

Title III, Division 1, Chapter 4 of the Planning Regulations: addressing Section 314-91 - Wireless Telecommunications Facilities, amending Section 91.2 to match the "Notice of Decision" language established in Section 312-6.7 and to establish that it is dependent

on Section 312-6.7 and utilizes the same procedures as associated with Notices of Decision.

SECTION 2. Chapter 2 - Table of Contents

Section 312-6 of the Table of Contents in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

312-6 Processing Applications for Permits and Variances

312-6.1 Application Check

312-6.2 Project Review

312-6.3 Public Review

312-6.4 Public Hearing: Evidence

312-6.5 Project Approval

312-6.6 Issuance of Permit or Variance

312-6.7 Notice of ~~Final Action~~ Decision

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312-13 Appeal Procedures

312-13.1 Appeals to the Board of Supervisors

312-13.2 Grounds for Appeal

312-13.3 Effect of Filing an Appeal

312-13.4 Processing an Appeal

312-13.5 Hearing Required

312-13.6 Notice of Public Hearing

312-13.7 Decision and Notice of Final Action

312-13.8 Finality and Effective Date

312-13.9 If No Decision Reached

312-13.10 Right to Decide All Matters

312-13.11 Major Vegetation Removal: Appeal of the Director's Determination

312-13.12 Appeals to the Coastal Commission

312-13.13 Grounds for Appeal to the Coastal Commission

SECTION 3. Processing Applications for Permits and Variances

Section 312-6 regarding Processing Applications for Permits and Variances in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

6.7 NOTICE OF ~~FINAL ACTION~~ DECISION

Notice of decision ~~final action~~ on an application for a permit or variance shall be given as follows:

6.7.1 Notice shall be provided within five (5) working days of the Planning Director's action on an Administrative Permit or Hearing Officer's action on any discretionary permit.

6.7.2 Notice shall be provided to the following by first class mail electronic mail or alternatively by first class mail in cases where the recipient does not have access to electronic mail ~~to~~:

6.7.2.1 The Applicant;

6.7.2.2 Any person who specifically requested, in writing, notice of such ~~final action~~ decision; and

6.7.2.3 For development proposed within the Coastal Zone, the Coastal Commission.

6.7.3 The notice for an Administrative Permit shall include the following information:

6.7.3.1 Copy of the Administrative Permit; and

6.7.3.2 Procedures for renewal, if applicable.

6.7.4 The notice on any discretionary permit shall include the following information:

6.7.4.1 Written findings;

6.7.4.2 Conditions of approval; and

6.7.4.3 Procedures for appeal, if applicable.

SECTION 4. Rights Attached to Permits and Variances

Section 312-10 regarding Rights Attached to Permits and Variances in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

10.2 EFFECTIVE DATE OF PERMIT OR VARIANCE

10.2.1 The Planning Director's action on administrative permits shall be effective immediately. Administrative permits shall not be appealable.

10.2.2 Except as specified below, the Hearing Officer's decision on an application shall become effective after the ten (10) working day appeal period unless an appeal is filed in accordance with Section 312-13, Appeal Procedures. For development permits involving projects which are appealable to the Coastal Commission, the effective date shall coincide with the close of the Coastal Commission's ten (10) working day appeal period, unless either of the following occurs:

10.2.2.1 An appeal is filed in accordance with Section 312-13.11; or

10.2.2.2 The notice of ~~final action~~ decision does not meet the requirements of Section 312-6.7, Notice of Decision.

When either of the circumstances in subsection 10.2.2.1 or 10.2.2.2 occurs, the Coastal Commission shall, within five (5) calendar days of receiving notice of that circumstance, notify the Department and the applicant that the effective date of the Hearing Officer's action has been suspended.

SECTION 5. Minor Deviations, Modifications, and Extensions

Section 312-11 regarding Minor Deviations, Modifications, and Extensions in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

11.3 EXTENSION OF A PERMIT OR VARIANCE

11.3.1 The period within which construction or use in reliance on a development permit or variance must begin may be extended by order of the Hearing Officer, at any time within sixty (60) working days prior to the expiration date, as originally established. An application for such an extension shall be made on the prescribed form and filed with the Department. Such application extends the expiration date until final action is taken by the Hearing Officer. The fee established by the Board of Supervisors for an extension shall be paid at the time of application.

11.3.2 Any number of extensions may be granted, but each extension shall be for no more than a total of two (2) years. Extensions may be granted by the Hearing Officer if the following findings are made:

11.3.2.1 The development has not changed from that for which the permit or variance was granted; and

11.3.2.2 The findings made when the permit or variance was granted can still be made.

SECTION 6. Appeal Procedures

Section 312-13 regarding Appeal Procedures in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

13.7 DECISION AND NOTICE OF FINAL ACTION

After the appeal hearing before the Board of Supervisors, the Board may sustain the action which is being appealed, grant or modify the application subject to specified conditions, or it may deny the application. The Board shall adopt findings, which specify the facts relied upon in deciding the appeal. The findings shall state the reasons for any conditions imposed by the Board. Notice of the ~~decision of~~ final action by the Board of Supervisors, ~~together with a copy of the findings adopted by the Hearing Officer~~ shall be given in accordance with ~~subsection 312-6.7, Notice of Final Action~~ the following:

13.7.1 Notice shall be provided within five (5) working days of the Board's action on any appeal.

13.7.2 Notice shall be provided by first class mail to:

13.7.2.1 The Applicant;

13.7.2.2 Any person who specifically requested, in writing, notice of such final action; and

13.7.2.3 For development proposed within the Coastal Zone, the Coastal Commission.

13.7.3 The notice shall include the following information:

13.7.3.1 The written findings adopted by the Board;

13.7.3.2 Conditions of approval; and

13.7.3.3 For development proposed within the Coastal Zone, procedures for appeal, if applicable.

13.12 APPEALS TO THE COASTAL COMMISSION

Notwithstanding any other provisions of the certified Local Coastal Program, an appeal of a decision to approve a Coastal Development Permit may be filed with the Coastal Commission by an applicant or any aggrieved person who has exhausted local appeals, or any two (2) members of the Coastal Commission. The appeal must comply with the requirements specified by 14 Cal. Code of Regulations Section 13111, and the appeal must be received by the Coastal Commission on or before the tenth (10th) working day after Coastal Commission receipt of the ~~notice of final~~ local action notice on the Coastal Development Permit.

An action taken on a Coastal Development Permit may be appealed to the Coastal Commission for only the following types of developments:

13.12.1 Developments approved between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance;

13.12.2 Developments approved that are not included within Paragraph (1) of this section ~~that~~ and are located on tidelands, submerged lands, public trust lands, within one hundred (100) feet of any wetland, estuary, stream, or within three hundred (300) feet of the top of the seaward face of any coastal bluff;

13.12.3 Any development approved that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500) of the Coastal Act;

13.12.4 Any development which constitutes a major public works project or major energy facility; or

13.12.5 Developments approved that are otherwise not included within paragraphs (1) or (2) ~~that~~ but are located in a sensitive coastal resource area.

SECTION 7. De Minimis Waivers from Coastal Development Permit Requirements

Section 312-16 regarding De Minimis Waivers from Coastal Development Permit Requirements in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

16.4 PROCEEDINGS FOR WAIVER OF PROCEDURES

16.4.6 Notice of ~~final action~~ decision on an application for a De Minimis Waiver shall be given as follows:

16.4.6.1 Notice shall be provided in accordance with Section 312-6.7, Notice of Decision ~~within five (5) working days of the Director's action.~~

~~16.4.6.2 Notice shall be provided by first class mail to:~~

~~16.4.6.2.1 The applicant;~~

~~16.4.6.2.2 Any person who specifically requested, in writing, notice of such final action; and~~

~~16.4.6.2.3 The Coastal Commission.~~

16.4.6.23 The notice shall include the following information:

16.4.6.23.1 The action taken;

16.4.6.23.2 The effective date and expiration date; and

16.4.6.23.3 Procedures for appeal if applicable.

SECTION 8. Amendments to the Zoning Regulations and Zoning Maps

Section 314-50 regarding Amendments to the Zoning Regulations and Zoning Maps in Title III, Division 1, Chapter 2 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

50.7 PROCESSING OF PROPOSED AMENDMENTS

50.7.2 Planning Commission Hearing.

50.7.2.1 After Administrative Review, the Planning Commission shall hold a duly noticed public hearing on the application for amendment. Notice shall be given pursuant to Sections 65090 through 65094 and in accordance with Section 65854 of the California Government Code.

SECTION 9. Wireless Telecommunications Facilities

Section 314-91 regarding Wireless Telecommunications Facilities in Title III, Division 1, Chapter 4 of the Humboldt County Code is hereby amended as follows (modifications deleting text are shown in strike out and additions as underlined text):

91.2 WIRELESS TELECOMMUNICATIONS FACILITIES

91.2.8.5 **Notice of ~~Final Action~~ Decision.** Notice of ~~final action~~ decision on an application for design review, a special permit or a conditional use permit shall be ~~given~~ provided in accordance with Section 312-6.7, Notice of Decision. ~~as follows:~~

~~91.2.8.5.1 Notice shall be provided within five (5) working days of the Planning Director's or Hearing Officer's action.~~

~~91.2.8.5.2 Notice shall be provided by first class mail to:~~

~~91.2.8.5.2.1 The applicant;~~

~~91.2.8.5.2.2 Any person who specifically requested, in writing, notice of such final action.~~

~~91.2.8.5.3 The notice shall include the following information:~~

~~91.2.8.5.3.1 Written findings;~~

~~91.2.8.5.3.2 Conditions of approval;~~

~~91.2.8.5.3.3 Procedures for appeal.~~

SECTION 4. This ordinance shall take effect and be in force thirty (30) days from the date of its adoption.

PASSED, APPROVED AND ADOPTED this 23rd day of September on the following vote, to wit:

AYES: Supervisors: -- Arroyo, Bohn, Bushnell, Madrone, and Wilson

NOES: Supervisors: -- None

ABSENT: Supervisors: -- None



Michelle Bushnell, Chair

Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

ATTEST:

Tracy Damico, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: 
Kaleigh Maffei, Deputy Clerk