

**ORDINANCE NO. 903 (2016)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT  
AMENDING THE ZONING ORDINANCE (CHAPTER 17 OF THE LAKEPORT  
MUNICIPAL CODE) TO IMPROVE TRANSPARENCY AND STREAMLINE  
PERMIT PROCESSING PROCEDURES**

**WHEREAS**, the City Council has considered all the evidence and text submitted into the administrative record, and

**WHEREAS**, the proposed amendments are in the public interest, are consistent with the General Plan, will not be detrimental to the community's health, safety, and welfare, and

**WHEREAS**, the proposed amendments comply with the California Environmental Quality Act, and

**WHEREAS**, the purpose of the amendments to the City of Lakeport Municipal (Chapter 17 of the Lakeport Municipal Code) is to improve transparency, public input and streamlining permit processing procedures, and

**WHEREAS**, The Planning Commission reviewed the amendment on November 18, 2015 and December 9, 2015, at a noticed hearing, and forwarded the zoning amendments to the Lakeport City Council with a recommendation of approval, and

**WHEREAS**, The Lakeport City Council introduced the amendment on January 5, 2016 and on January 19, 2016 reviewed and in view of all of the evidence and based on the foregoing findings and conclusions, approved the zoning amendments.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEPORT DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Amendment to Regulations for Clear Lake Shoreline Development (SD) Combining District**

Chapter 17.18 of Title 17 of the Lakeport Municipal Code is amended to read as follows:

**17.18.010 Purpose.**

To protect and preserve environmentally sensitive areas adjacent to the Clear Lake shoreline and to prevent degradation of wetland and riparian areas, reduce erosion and water quality impacts and enhance the fishery resources and view corridors. Within the

SD combining district, all uses shall comply with the regulations of the base zoning district and with the additional regulations set forth in this chapter.

**17.18.020 Applicability.**

The Shoreline Development District shall be applied in the following areas: Those areas designated on the Lakeport Zoning Map as SD Combining District.

**17.18.030 Uses permitted subject to the issuance of a shoreline development permit.**

- A. Any use permitted within the base zoning district that involves grading, dredging, filling, excavation of soil or gravel, or other similar activities that would alter the existing topographic characteristics along the Clear Lake shoreline.
- B. Proposed construction, reconstruction, additions, or modifications of buildings, boat ramps, retaining walls, boat docks, floats, fencing, utility lines, or other similar improvements.

**17.18.040 Exemptions.**

The following activities shall be exempt from the provisions of this section:  
Activities of a governmental agency, including:

- A. The rehabilitation or replacement of previously authorized fill, provided that the fill has not or will not be put to uses differing from the original permit authorizing its initial construction.
- B. Bank stabilization.
- C. Maintenance and operation of existing flood control and drainage facilities.
- D. Emergency filling activities necessary for the protection of human health, safety, and welfare.
- E. Removal of accumulated silt down to original grade.

**17.18.050 Setbacks.**

All proposed construction except for boat ramps, docks, piers, boat lifts, and similar lake-oriented facilities shall be 7.79 above Zero Rumsey (1318.26 A.S.L.). Increased setbacks may be required by the city in order to make the findings set forth in Section 17.18.080.

**17.18.060 Maximum height of structures.**

The maximum height of all structures on parcels along the shore of Clear Lake within the Clear Lake shoreline development combining district shall not exceed twenty-five feet unless a greater height is allowed through the approval of a use permit.

**17.18.070 Shoreline development plan required.**

In conjunction with an application for a land use project or building permit, a shoreline development plan shall be submitted for review and approval. The shoreline development plan shall include:

- A. A plot plan drawn to scale showing all existing vegetation cover and all types of plant materials including tules, cattails, willows, cottonwood, aquatic vegetation, oak trees, and other similar vegetation.
- B. A plot plan depicting the existing property lines and site topography at two foot intervals, identification of the areas adjacent to Clear Lake, including the Zero Rumsey, 7.79 Rumsey, 11.5 Rumsey, and one thousand three hundred twenty-six feet above sea level.
- C. A vicinity map identifying the wetlands on adjacent properties.
- D. A plot plan showing the intended development including all proposed structures, roads, drainage facilities, fill areas, dredging areas, final topographic contours, and water control facilities such as retaining walls, revetments, levies, dikes, banks, berms, etc.
- E. A plant and wildlife habitat management, protection, and enhancement program including proposed wetland plant materials and other native vegetation.

**17.18.080 Findings of Approval.**

The community development department shall review the shoreline development plan. A shoreline development permit shall be deemed complete if it is found that the proposed project will:

- A. Not adversely affect the existing Clear Lake water quality; and
- B. Not negatively affect the long-term preservation of lands along the Clear Lake shoreline area; and
- C. Not affect any rare and endangered plants and animals; and
- D. Be compatible with the natural environment existing along the Clear Lake shoreline in the area; and
- E. Not result in the unnecessary removal of wetland vegetation or riparian environment including tules, cottonwood, willow trees, cattails, and other significant vegetation; and
- F. Result in minimum disruption of soil and bank areas along shoreline parcels; and

G. Comply with the provisions, policies, and programs of the Lakeport general plan, and other city, county, state, or federal agencies.

#### 17.18.090 Approval Notification

Prior to approval of a shoreline development plan, and not less than ten (10) calendar days prior to the proposed issuance, the community development department shall notify owners of contiguous properties immediately adjacent to the said project and/or additional properties as determined by the community development director. Notification shall be given by mail or delivery.

The written notice shall declare that the requested shoreline development plan may be issued without review and decision by the planning commission if no written request for review is filed with the community development department within ten (10) calendar days of the date of mailing.

If no request for review and decision by the planning commission is filed with the community development department, the shoreline development plan may be issued by the community development director.

If a request for review by the planning commission is filed with the community development department pursuant to this subsection, the community development director shall schedule a public hearing before the planning commission at its next regularly scheduled meeting. Notification of said public hearing shall adhere to the requirements of Section 17.30 of this Code

#### **17.18.100 Community Development Director Referral to the Planning Commission.**

If the Community Development Department is unable to make the findings necessary to approve the shoreline development permit, the matter shall be referred to the Planning Commission for review and decision. If it is found that a project does not comply with the findings set forth in Section 17.18.080 above, then the shoreline development may be denied. Conditions of approval may be imposed on a shoreline development permit/project as necessary to achieve compliance with the Purpose section (17.18.010).

## **SECTION 2. Amendment to Minor Exceptions**

Chapter 17.25 of Title 17 of the Lakeport Municipal Code is amended to read as follows:

#### **17.25.010 Purpose.**

These provisions allow for minor adjustments from the standards contained in this code when, because of special circumstances applicable to the property, the strict application of this code deprives such property of privileges enjoyed by other properties in the vicinity and under identical land use districts.

**17.25.020 Conditions.**

Any minor exception granted shall be subject to such conditions as will ensure that the adjustment will not constitute a grant of special privilege(s) inconsistent with the limitations upon other properties in the vicinity and land use district in which such property is situated.

**17.25.030 Applicability.**

The community development director may grant a minor exception up to a maximum of ten percent governing the following measurable design/site considerations or other similar situations.

- A. Distance between structures.
- B. Lot dimensions.
- C. On-site parking, loading, and landscaping.
- D. Setbacks.

Any modification request which exceeds the prescribed limitations outlined in this section shall require the filing of a variance application.

**17.25.040 Application.**

An application for a minor exception shall be filed on forms provided by the community development department.

**17.25.050 Approval Notification.**

Prior to approval of a minor exception, and not less than ten (10) calendar days prior to the proposed issuance, the community development department shall notify owners of contiguous properties immediately adjacent to the said project and/or additional properties as determined by the community development director. Notification shall be given by mail or delivery.

The written notice shall declare that the requested minor exception may be issued without review and decision by the planning commission if no written request for review is filed with the community development department within ten (10) calendar days of the date of mailing.

If no request for review and decision by the planning commission is filed with the community development department, the minor exception permit may be issued by the community development director.

If a request for review by the planning commission is filed with the community development department pursuant to this subsection, the community development

director shall schedule a public hearing before the planning commission at its next regularly scheduled meeting. Notification of said public hearing shall adhere to the requirements of Section 17.30 of this Code.

**17.25.060 Findings.**

The Community Development Director shall make a decision on the request in writing and recite herein the findings upon which such decision is based, pursuant to Section 65906 of the Government Code. The director may approve and/or modify an application in whole or in part, with or without conditions, only if all of the following findings are made:

A. That there are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings which create an unusual situation in terms of the ability to comply with code requirements.

B. That granting the minor exception is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and land use district and is restrictive to the property for which the minor exception is sought.

C. That granting the minor exception will not be detrimental to the public health, safety, or welfare or injurious to the property or improvements in such vicinity and land use district in which such property is located.

D. That granting the minor exception does not constitute a special privilege inconsistent with the limitation upon other properties in the vicinity and land use district in which such property is located.

E. That granting the minor exception does not exceed ten percent of the standard(s) being modified, or allow a use or activity which is not otherwise authorized by the regulations governing the subject parcel.

F. That granting the minor exception will not be inconsistent with the general plan.

**17.25.070 Precedents.**

The granting of a prior minor exception is not admissible evidence in support of the granting of a new minor exception.

**17.25.080 Burden of proof.**

The burden of proof to establish the evidence in support of the findings is the responsibility of the applicant.

**17.25.090 Minor exception expiration.**

A minor exception shall be exercised within one year from the date of approval, or it shall become null and void.

**17.25.100 Time extension.**

The director may, upon an application being filed prior to expiration and for good cause, grant a time extension not to exceed six months. Upon granting of an extension, the director shall ensure that the minor exception complies with all current code provisions.

**17.25.110 Revocation.**

The planning commission may hold a public hearing to revoke or modify a minor exception granted pursuant to the provisions of this chapter. Ten days prior to the public hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which such minor exception was granted. Notice shall be deemed delivered two days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the county of Lake, and/or the project applicant.

A minor exception may be revoked or modified by the director if any one of the following findings can be made:

- A. That circumstances have changed so that one or more of the findings contained in Section 17.25.060 can no longer be made, and the grantee has not substantially exercised the rights granted by the minor exception.
- B. That the minor exception was obtained by misrepresentation or fraud.
- C. That the improvement authorized pursuant to the minor exception had ceased or was suspended for six or more consecutive calendar months.
- D. That one or more of the conditions of the minor exception have not been met, and the grantee has not substantially exercised the rights granted by the minor exception.
- E. That the improvement authorized pursuant to the minor exception is in violation of any statute, ordinance, law, or regulation.
- F. That the improvement permitted by the minor exception is detrimental to the public health, safety, or welfare or constitutes a nuisance.

**SECTION 3. Amendment to Architectural and Design Review**

Section 17.27.030 of Title 17, Chapter 17.27 of the Lakeport Municipal Code is amended to read as follows:

**17.27.030 Authority.**

Authority to approve plans for projects subject to architectural and design review shall be authorized as follows:

A. Administrative Approval. The community development director is authorized to review and administratively approve:

1. Change of Use. A change of use in an existing nonresidential building involving no new construction upon the finding that the use and site meet the requirements of this title and that all standard public improvements are existing.
2. The painting or re-painting of all commercial, industrial, multifamily, institutional, or similar buildings.
3. Single-family dwellings and additions thereto.

B. Minor Architectural and Design Review. The community development director is authorized to review and decide upon applications for minor architectural and design review involving the following:

1. Small Projects. New uses, renovations, remodels, or additions to existing nonresidential structures which do not exceed four hundred square feet in gross floor area or that do not involve alterations to more than twenty percent of any one or more exterior side(s) of the structure.
2. Duplex residential units.

C. The community development director may refer to the planning commission any project application which involves a significant policy issue or that cannot be decided upon at a staff level. The planning commission shall then assume authority for the review and decision of the project application.

D. Planning Commission. The planning commission is authorized to review and decide on all other plans for commercial, industrial, multifamily residential, and institutional structures, and the alteration or enlargement of existing commercial, industrial, multifamily, and institutional structures except as provided for in subsections A and B of this section.

E. No condition of the architectural and design review approval shall impose requirements pertaining to use, density, floor area ratio, creek setbacks, parking and loading, and similar requirements that are more restrictive than those required by the applicable zoning district on a valid use permit or variance.

#### **SECTION 4. Amendment to Architectural and Design Review**

Section 17.27.070 of Title 17, Chapter 17.27 of the Lakeport Municipal Code is amended to read as follows:

**17.27.070 Application review.**

Architectural and design review applications considered by the planning commission shall be reviewed at a public hearing in accordance with the provisions of Chapter 17.29. The planning commission shall consider the application at the most appropriate meeting date within sixty days following a determination by the community development director that the application is complete. The community development director shall publish a notice in the local newspaper, at least ten calendar days in advance of the meeting, giving the application number, the applicant's name and address, the proposed action, the location, and assessor's parcel number along with the date, time, and place of the public hearing.

Prior to approval of an administrative or minor architectural and design review, and not less than ten (10) calendar days prior to the proposed issuance, the community development department shall notify owners of contiguous properties immediately adjacent to the said project and/or additional properties as determined by the community development director. Notification shall be given by mail or delivery.

The written notice shall declare that the requested administrative or minor architectural and design review may be issued without review and decision by the planning commission if no written request for review is filed with the community development department within ten (10) calendar days of the date of mailing.

If no request for review and decision by the planning commission is filed with the community development department, the administrative or minor architectural and design review may be issued by the community development director.

If a request for review by the planning commission is filed with the community development department pursuant to this subsection, the community development director shall schedule a public hearing before the planning commission at its next regularly scheduled meeting. Notification of said public hearing shall adhere to the requirements of Section 17.30 of this Code.

**SECTION 5. Amendment to Performance Standards**

Section 17.28.010.O of Title 17, Chapter 17.28 of the Lakeport Municipal Code is amended to read as follows:

**17.28.010.O Fences and Walls/Residential Areas.**

O. Fences and Walls/Residential Areas. Fences and walls constructed in all residential zoning districts shall be subject to the following:

1. Fences or walls up to six feet in height are permitted along the interior side lot line(s) to the front setback line, along the interior rear lot line, along the front yard setback line, and along the side yard street setback line.
2. Fences or walls up to three feet in height are permitted along the front lot line--within the front yard setback area, and along the street side lot line--within the street side yard setback area. Fences or walls over three feet in height, but not exceeding six feet in height, may be allowed along the front or street side lot lines within the front or street side yard setback areas only if approved by the planning commission, and when the following criteria are complied with:
  - a. The fence shall not create a substantial hazard to the public by creating reduced visibility or other sight distance problems.
  - b. The fence shall be aesthetically pleasing and not create an inappropriate walled-in effect, visual barrier, or result in a public safety problem.
3. Fences or walls over six feet in height but under eight feet in height along interior side or rear lot lines may be approved by the planning commission when the following criteria are complied with:
  - a. The fence shall not create a substantial hazard to the public by creating reduced visibility or other sight distance problems.
  - b. The fence shall be aesthetically pleasing and does not create an inappropriate walled-in effect, visual barrier, or result in a public safety problem.
4. Retaining walls are permitted along all property lines for the purpose of retaining natural grade or engineered fill areas subject to the issuance and approval of a building permit in compliance with the Uniform Building Code. All retaining walls in excess of four feet in height measured from the footing shall be designed by a civil or structural engineer. Retaining walls of any height may be constructed adjacent or along all property lines without setback requirements.
5. Prior to the review of fence height request by the planning commission, and not less than ten (10) calendar days prior to the proposed meeting of the planning commission, the community development department shall notify owners of contiguous properties immediately adjacent to the said project and/or additional properties as determined by the community development director. Notification shall be given by mail or delivery. The planning commission may impose conditions on the approval of a fence height request in order to achieve compliance with the fence criteria. The planning commission may deny a request when the criteria have not been satisfied.

## **SECTION 6. Amendment to Applications and Fees**

Chapter 17.29 of Title 17 of the Lakeport Municipal Code is amended to read as follows:

### **17.29.010 Purpose**

To define the procedures and requirements for applications for land use actions.

### **17.29.020 Eligibility for filing**

An application may only be filed by the owner of the subject property or a lessee or authorized agent of the owner with the written consent of the property owner. The applicant shall be signed by the owner of the subject property or a lessee or authorized agent of the owner if written authorization from the owner is filed concurrently with the application.

### **17.29.030 Land use application procedures**

The following procedures shall be followed in processing of land use applications and development permits which require planning commission or city council action:

- A. Pre-Application Conference
  1. A prospective project proponent is encouraged to request a pre-application conference with community development staff before completing and filing a land use application/development.
  2. The purpose of the pre-application conference is to:
    - a. Inform the project proponent of City requirements as they apply to the proposed project:
    - b. Review the City's land use development review process, possible project alternative or modifications; and
    - c. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project.
  3. Information and materials provided by City staff to the applicant at the pre-application conference shall not be construed as a recommendation for wither approval or denial of the proposed project.
  4. Failure by City staff to identify all required studies or all applicable requirements shall not constitute a waiver of those requirements.

## B. Application Contents

1. Application for land use projects, action, permits, permit modifications, amendments, and other matters pertaining to this code shall be filed with the community development department on an official City application form.
2. The application shall be filed with all required fees, deposits, information, and materials as specified by the community development department.
3. Project proponents are encouraged to contact the community development department before submitting an application to verify which materials are necessary for application filing.

## C. Review of Application

1. The community development department shall review each application for completeness and accuracy before it is accepted in compliance with Government Code 65943. Acceptance of the application shall be based on the City's list of required application contents and any additional written instructions provided to the project proponent in a pre-application conference, and/or during the initial application review period.
2. At the discretion of the community development department, or where otherwise required by this code or State or federal law, an application may be referred to any public agency that may have interest in the proposed project.
3. Within 30 calendar days of application acceptance, the project proponent shall be informed in writing that the application is complete and has been accepted for processing, or that the application is incomplete and the additional information is required in conformance with Government Code Section 65943. Upon receipt of any resubmittal of the application, a new 30 day review period shall begin, during which the community development department shall again determine the completeness of the application.
4. When the community development department determines that an application is incomplete, and the project proponent believes the application is complete or that the information requested by the community development department is not required, the project proponent may appeal the determination in compliance with Chapter 17.31 (Appeals and City Council Review) of this code.
5. After the City has accepted an application as complete, the community development department may require the applicant to submit additional

information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

#### 17.29.040 Project Evaluation and Staff Reports

A. Staff Evaluation. The community development department shall review all land use applications/development permits to determine if they comply with all applicable requirements, including the Zoning Ordinance, other applicable provisions of the Municipal Code, the General Plan, and any applicable specific plan.

B. Staff Report. The Community Development Department shall provide a written recommendation for all land use applications/development permits subject to the review authority of the planning commission and/or city council (as applicable) as to whether the application should be approved, approved with conditions, or denied.

C. Report Distribution. Each staff report shall be furnished to the applicant at the same time it is provided to the review authority before action on the application

#### 17.29.050 Expiration of Application

A. If an applicant fails to provide additional information, as specified in Section 17.29.030.C.3, requested in writing by the community development department within six months (180 days) following the date of the letter, the application shall expire and be deemed withdrawn, without any further action by the City.

B. The community development director may grant one 90-day extension, if the project proponent files a written request with the community development department before expiration.

C. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated fees.

#### 17.29.060 Fees

The City Council shall, by resolution, establish a schedule of fees for land use applications, amendments, and other matters pertaining to this chapter. The schedule of fees may be changed or modified by resolution of the council. Review shall not commence on any application until all applicable fees have been paid in full. The city is not required to continue processing and application unless its fees are paid in full. Failure to pay the applicable fees is grounds for denial of the application.

**SECTION 7. 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 8. CEQA.** This ordinance is not a “project” subject to the California Environmental Quality Act (CEQA). “Project” does not include “general policy and procedure making” or “[o]rganizations or administrative activities of governments that will not result in direct or indirect physical changes in the environment” pursuant to CEQA Guidelines § 15378(b). In addition, this ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines §15305 as the issuance of said permits will not result in the modification of any land uses or density pursuant to CEQA Guidelines §15305

**SECTION 9. Effective Date.** This ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

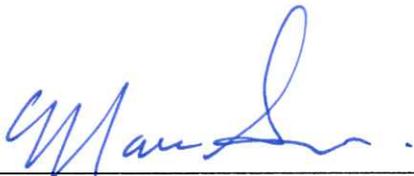
**SECTION 10. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting the entire text.

INTRODUCED and first read at a regular meeting of the City Council on the 5<sup>th</sup> day of January, 2016, by the following vote:

AYES: Mayor Spillman and Council Members Mattina, Parlet, Scheel, and Turner  
NOES: None  
ABSTAIN: None  
ABSENT: None

FINAL PASSAGE AND ADOPTION by the City Council of Lakeport occurred at a meeting thereof held on the 2nd day of February 2016, by the following vote:

AYES: Mayor Spillman and Council Members Mattina, Parlet, Scheel, and Turner  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
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MARC SPILLMAN, MAYOR

ATTEST:

  
\_\_\_\_\_  
KELLY BUENDIA, City Clerk