

ORDINANCE OF THE CITY OF BELMONT AMENDING SECTION 17-4
(POWERS AND DUTIES OF COMMISSION) OF THE BELMONT MUNICIPAL CODE
REGARDING PLANNING COMMISSION CALL-UP AUTHORITY

WHEREAS, on January 11 & 25, 2005, and July 12, 2005, the City Council provided direction to staff to evaluate and prepare draft amendments to Municipal Code Section 17-4 (*Powers and Duties of Commission*) to grant the Planning Commission call-up authority over administrative decisions made by the Planning and Community Development Director; and,

WHEREAS, on September 13, 2005, the City Council, following notification in the prescribed manner, conducted a public hearing, at which hearing the Council considered public testimony and a staff report on the aforementioned amendments; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

WHEREAS, the City Council finds the proposed amendments to be Categorically Exempt pursuant to CEQA Section 15308 – Actions of Regulatory Agencies for the Protection of the Environment.

Section 1: NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belmont that Section 17-4 (Powers and Duties of Commission) of the Belmont Municipal Code is hereby amended to read as follows:

Section 17-4 (Powers and Duties of Commission)

It shall be the function and duty of the Planning Commission to do all things necessary and proper within its jurisdiction to carry out the intent and purposes of the state Government Code, and when so required, to perform such other acts and do all manner of things which it may be lawfully required to do or perform.

The Planning Commission shall not incur, allow or permit to accrue any debt or liability, exclusive of the review of Administrative Decisions made by the Planning and Community Development Director or the expenditure of gifts, in excess of available funds appropriated for its purposes by the City Council.

A. *The following Administrative Decisions, as regulated by the Belmont Zoning Ordinance (BZO), to be made by the Planning and Community Development Director shall also be subject to Planning Commission call-up authority and review:*

1. *Exceptions to Single Family Floor Area Standards (BZO Section 4.2.10)*
2. *HRO Floor Area Transfers and Lot Line Adjustments (BZO Section 4.7.11)*
3. *Temporary Uses (BZO Section 9.5.2)*
4. *Extensions of Time for Administrative Approvals (BZO Section 10.5.2)*
5. *Conditional Use Permits (BZO Section 11.7)*
6. *Amendments to Detailed Development Plans (BZO Section 12.12)*
7. *Design Review Approvals (BZO Section 13.5)*
8. *Exceptions to Site Development Standards for Commercial and Manufacturing Districts (BZO Section 14.9)*

B. *Within ten (10) days following the date of the decision by the Planning and Community Development Director for the entitlements enumerated above, a Planning Commissioner may initiate proceedings to review such decision by the Planning Commission. Should no such request be served within ten (10) days, such decision is final, unless appealed to the Planning Commission pursuant to the procedures of Section 15 of the Belmont Zoning Ordinance (Appeals).*

Said review shall be governed by the following procedures/requirements:

- (a) The request for review by a Planning Commissioner must be made by written notice. Said notice shall be served on the city clerk, or secretary of the planning commission. The clerk or secretary shall notify the applicant or if the matter concerns real property, the owner of the real property in question.*
- (b) Upon service of said notice of request for review by the Planning Commission, all proceedings in furtherance of the action or decision of the Planning and Community Development Director shall be stayed.*
- (c) No fees shall be required for request of such Administrative Decision review by a Planning Commissioner.*
- (d) The Planning Commission shall review the matter not later than thirty (30) days following service of the notice of review.*
- (e) Upon completion of its review, the Planning Commission may affirm, reverse, or modify the decision of the Planning and Community Development Director.*
- (f) Within ten (10) days following the date of the decision by the Planning and Commission, a City Councilmember, pursuant to Section 1-11 of the Municipal Code, may initiate proceedings to review such decision by the City Council.*
- (g) Upon service of notice of request for review by the City Council, all proceedings in furtherance of the action or decision of the Planning Commission shall be stayed.*
- (h) Should no such request be served within ten (10) days, such decision is final, unless appealed to the City Council pursuant to the procedures of Section 15 of the Belmont Zoning Ordinance (Appeals).*

SECTION 2: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 4: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED this _____ day of _____, 2005.

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PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the _____ day of, September 2005.

AYES, COUNCIL MEMBERS: _____

NOES, COUNCIL MEMBERS: _____

ABSTAIN, COUNCIL MEMBERS: _____

ABSENT, COUNCIL MEMBERS: _____

RECUSED, COUNCIL MEMBERS: _____

MAYOR of the City of Belmont

ATTEST:

CLERK of the City of Belmont