

ORDINANCE NO. 521

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES AMENDING SECTION 13-44.200 OF THE HERCULES MUNICIPAL CODE RELATING TO NOTICING REQUIREMENTS

WHEREAS, on February 26, 2019, the City Council of the City of Hercules discussed the current noticing process for zoning and planning matters and directed staff to present to the Council amendments to the Zoning Code to expressly incorporate the allowance in the California Government Code Section 65090 for additional noticing; and

WHEREAS, according to Zoning Ordinance Section 13-52.200, the City Council is authorized to direct the Planning Commission to consider amendments to the Zoning Ordinance at a public hearing; and

WHEREAS, the Planning Commission did hold a properly noticed public hearing on March 18, 2019 to consider Council's direction to modify the Noticing provisions of the Zoning Ordinance requiring a Zoning Text Amendment, and did hear and use its independent judgment to consider all said reports, recommendations, and testimony in adopting Recommending Resolution #19-01 with some additional proposed amendments; and

WHEREAS, the City Council did hold a properly noticed public hearing on April 9, 2019 to consider Zoning Text Amendment #ZTA 19-01, and having considered all reports, recommendations, and testimony, did use its independent judgment to adopt the proposed draft ordinance to amend Section 13-44.200 of the Municipal Code as originally proposed by staff, without adopting the two additional suggested modifications recommended by the Planning Commission to a) remove the requirement that the applicant provide the list of recipients for the notice, and b) expand the requirement for additional posting at 3 locations to all projects, not just when noticing extends to 1,000 recipients or more.

WHEREAS, it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment and is thus categorically exempt from the California Environmental Quality Act ("CEQA") [State CEQA Guidelines Section 15061(b)(3)].

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

SECTION 1.

Section 13-44.200 of the Hercules Municipal Code is hereby amended to read,

“Sec. 13-44.200 Application Processing and Hearing Notice.

Upon submittal of a complete application(s), the application(s) shall be reviewed and processed consistent with the provisions of the California Government Code Section [65090](#) et seq.

When a provision of the Zoning Ordinance requires or results in a public hearing, notice shall be given in all of the following ways:

1. Written notice of the hearing shall be mailed or delivered to the owner or his agent and the applicant not less than 10 days prior to the public hearing.
2. Written notice of the hearing shall be mailed or delivered to each local agency expected to provide public facilities or services to the project and whose ability to provide facilities or services may be significantly affected not less than 10 days prior to the public hearing.
3. Written notice of the hearing shall be mailed or delivered to all property owners within 300 feet of the property subject to the hearing not less than 10 days prior to the public hearing. The list of owners within 300 feet along with adequate mailing labels to notice the required public hearings shall be prepared by the applicant and shall accompany the application using for this purpose the last known name and address of owners as shown in the current tax assessor’s records. Additional notice may be required by the Planning Director when in a particular case circumstances warrant such additional notice. Such additional notice may include but is not limited to: extending mailed notice to beyond 300 feet of the property; providing notice to tenants in addition to the notice required to be provided to property owners, and; utilizing additional means of notification in addition to mailed notice. Whenever the Planning Director decides in his or her discretion to require additional notice, the reason for imposing the

additional notice shall be provided to the applicant, and shall be included in any staff report to the Planning Commission and City Council.

If the number of property owners to be notified exceeds 1,000, the City may in lieu of mailing notices provide notice by placing a display advertisement of at least one-eighth page in length in at least 1 newspaper of general circulation within the City and post notice of the hearing not less than 10 days prior to the public hearing in at least 3 public places within the boundary of the City including 1 area directly affected by the proceeding.

The public notice shall include the date, time, and place of public hearing, the name of hearing body, a general explanation of the matter to be considered, and a general description in text or diagram of the location of the property subject to the hearing. The notice should also include a statement that any interested person is invited to appear to address or object to the application in question and a statement of appeal procedures and time limits. [Ord. 515 § 2, 2018; ZO § 44.200.]”

SECTION 2 – CEQA.

The adoption Zone Text Amendment #ZTA 19-01 is categorically exempt from the California Environmental Quality Act (“CEQA”) [State CEQA Guidelines Section 15061(b)(3).

SECTION 3 – SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

SECTION 4. Publication and Effective Date.

a. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or

2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or

3. Publishing a summary of the Ordinance in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

b. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 9th day of April, 2019, and was passed and adopted at a regular meeting of the Hercules City Council on the 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dan Romero, , Mayor

Lori Martin, Administrative Services Director &
City Clerk