

CITY COUNCIL AGENDA: JANUARY 21, 2014

PUBLIC HEARING

SUBJECT: ADOPTION OF FEES FOR PHOTOMETRIC PLANS AND TEMPORARY STRUCTURES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

BACKGROUND: At the City Council meeting of November 19, 2013, staff identified the need to follow up with an item for City Council's consideration regarding the review of photometric (i.e. site lighting) plans. At the meeting of December 3, 2013, the Council directed staff to schedule a public hearing to consider adoption of a fee for photometric plan review services as an optional service to applicants. At that same meeting, the Council adopted Resolution 82-2013, amending Resolution 29-2005 as it pertains to use of cargo/shipping containers as a temporary structure. With the adoption of Resolution 82-2013, staff was tasked with developing fees specific to the short term and long term temporary use of cargo/shipping containers. These two fees are unrelated in topic, but due to the concurrent timing and procedural requirements, they have been brought together for consideration in a single public hearing. The fees are presented with separate resolutions for individual adoption if so desired by the City Council.

COMMENT: **Photometric Plan Fee-**

Photometry is the science of the measurement of light, in terms of its perceived brightness to the human eye. The 2030 Porterville General Plan identified implementation policy LU-I-25 "Establish buffering requirements and performance standards intended to minimize harmful effects of excessive noise, light, glare, and other adverse environmental impacts." Section 300.07 Lighting and Illumination of the Porterville Development Ordinance provides standards for the use of outdoor artificial light that may have a detrimental effect on the environment. As building permits have been submitted, staff has requested photometric plans to identify the location of light sources and the resulting distribution of light.

A few members of the Porterville Development Ordinance Committee (Committee) identified issues with providing photometric plans on small scale projects. Staff has researched and tested software programs, and has estimated that the time required to provide this service is approximately two to three hours, dependent upon the size of the project. Staff would limit the size of qualified projects to two (2) acres. Projects larger than that have increased potential for complexities beyond the capacity of the proposed software. The software would cost the City approximately \$100 annually, which would be absorbed into the departmental operating budget. Staff is proposing that, at the applicant's request, the City may provide the task of generating these photometric plans, for a fee based on staff time required.

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APPROPRIATED/FUNDED \_\_\_\_\_

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ITEM NO. 14

In 2006, the Council adopted an hourly rate for staff time of \$79 per hour for “General Research in excess of 30 minutes”. Using that rate, and estimating two to three hours for the average project, an appropriate fee for preparation of a photometric plan would be \$158. This fee amount was also discussed with the Committee and was concurred with by the Committee.

### **Use of Cargo/Shipping Containers as Temporary Non-Standard Development Fees-**

At the meeting of December 3, 2013, the City Council adopted an amended resolution creating a provision for the use of cargo/shipping containers in two manners: as Temporary Non-Standard Development: Short Term, and as Temporary Non-Standard Development: Long Term. Such review and approval of cargo/shipping containers, in specific applications, is allowed as follows:

**Use of Cargo/Shipping Containers as Temporary Non-Standard Development: Short Term:** Where appropriate and necessary for short term use, the Zoning Administrator may approve use of cargo/shipping containers in Commercial and Industrial zone districts associated with an existing development for additional storage capacity subject to the following specific criteria:

- The number of containers is limited to one per business or parcel, whichever results in fewer containers per site.
- The cargo/shipping container shall not remain on site for longer than 100 days.
- The placement of the cargo/shipping container shall be such that it does not interfere with the permanent site improvements, including, but not limited to, parking, loading areas, on-site circulation, and accessibility.
- The placement of the cargo/shipping container shall not encroach into required setbacks, and must not be visible from off site or public streets.
- Use of a cargo/shipping container may be granted subject to payment of an adopted fee for a Ministerial Temporary Structure Permit. Use of cargo/shipping containers in manners not consistent with this section may only be authorized by the City Council.

**Use of Cargo/Shipping Containers as Temporary Non-Standard Development: Long Term:** Where appropriate and necessary for longer term use, the Council may approve use of cargo/shipping containers in Commercial and Industrial zone districts associated with an existing development for additional storage capacity subject to the following specific criteria:

- The number of containers allowed would be determined by Council.
- The time period requested shall be specified by the applicant. Final expiration of the permit shall be coterminous with the permit expiration date approved by Council. Extensions will not be permitted. However, the applicant may apply for another long term, discretionary, permit. Failure to obtain the renewed permit could result in Code Enforcement action and associated fines.

- The placement of the cargo/shipping container shall be such that it does not interfere with the permanent site improvements, including, but not limited to, parking, loading areas, on-site circulation, and accessibility.
- The placement of the cargo/shipping container shall not encroach into required setbacks, and must not be visible from off site or public streets.
- Use of a cargo/shipping container may be granted subject to payment of an adopted fee for a Discretionary Temporary Structure Permit application with a monthly fee applicable upon approval and commencing at 100 days of use. The fee would apply for any month or portion thereof the container continues to be stored on site.
- Council may require additional conditions intended to ensure the use does not create blight.

The recommended fee structure is based on staff time necessary to initiate review of temporary structures and then monitor on-going compliance in these specific cases. Short term applications would be reviewed by the Zoning Administrator. Along that line, the short term application fee recommended is \$296, which represents \$138 (the existing fee for Zoning Administrator permits) plus \$158 (the hourly standard rate for staff time [\$79] multiplied by two). This number anticipates a level of effort consistent with other Zoning Administrator permits and two site monitoring efforts during the permit period for the short term temporary structures, up to 100 days.

The long term application fee recommended is based on the current \$454 fee applicable for all temporary structures. However, in addition to the \$454 fee, a \$79 monthly fee would be applied in order to accommodate monthly site monitoring by staff. The fee for long term applications would be sliding, dependent on how many months are requested; the fee would be calculated and assessed at the time an application is submitted. The number of months for a long term temporary structure would be defined as a part of the Council's resolution of approval, thereby confirming the fee.

In the event that the temporary structure remains in place for a period of time longer than permitted without application by the user for additional time, Planning Division Staff would attempt to work with the applicant to gain voluntary compliance. In the event voluntary compliance is not achieved, the matter would be referred to the Code Enforcement Division, and penalties in the form of administrative citations could be enforced in a manner consistent with Chapter 2, Article XIV of the City of Porterville Municipal Code and the user would be deemed guilty of an infraction or misdemeanor. A conviction for a misdemeanor may be punishable by a fine of not more than \$1,000, by imprisonment in the county jail not exceeding 180 days, or by both. A conviction for an infraction may result in a fine ranging from \$100 to \$1,000, depending on the number and frequency of violations. Typically, the penalty process is initiated with a Notice of Violation which establishes a timeframe by which the party must return to compliance. If voluntary compliance is not achieved, citations are issued on a repetitive basis in order to accomplish compliance.

ENVIRONMENTAL REVIEW: The adoption of the proposed fees does not meet the definition of "Project" pursuant to §21065 of the California Environmental Quality Act (California Public Resources Code).

RECOMMENDATION: That the City Council:

1. Adopt the Resolution establishing a fee for the optional service of preparing photometric plans; and
2. Adopt the Resolution establishing fees for use of cargo containers as temporary structures.

ATTACHMENTS:

1. Draft Resolution establishing a fee for the optional service of preparing photometric plans
2. Draft Resolution establishing fees for use of cargo containers as temporary structures

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF PORTERVILLE ADOPTING A FEE FOR STAFF TO PROVIDE THE  
OPTIONAL SERVICE OF PREPARING PHOTOMETRIC PLANS

WHEREAS, on November 19, 2013, the City Council of the City of Porterville adopted Ordinance 1801, a comprehensive amendment to the Development Ordinance. At that time, staff identified the need to follow up with an item for City Council's consideration regarding the review of photometric (i.e. site lighting) plans; and

WHEREAS, Section 300.07 of the Porterville Development Ordinance sets forth requirements related to lighting and illumination with the purpose of minimizing outdoor artificial light; and

WHEREAS, the method by which compliance with the development standards can be confirmed is the preparation of a photometric plan. Such plans are often prepared free of charge by the contractor providing the lighting units, but not always for smaller projects. In those cases where the project is smaller, or where multiple vendors may be used to provide lights for a proposed project, an electrical engineer would be contracted to prepare a photometric plan, often at high cost; and

WHEREAS, staff has researched and found a software that could be used to prepare photometric plans if certain project specific information is made available by the applicant. The software cost is de minimis and is therefore not calculated into the fee, and estimated staff time for an average project less than two acres in size is approximately two hours; and

WHEREAS, on January 21, 2014, the City Council reviewed the Photometric Plan fee and determined that a fee of \$158 is justifiable given the amount of technical effort put forth to provide the service.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Porterville that the fee for optional staff preparation of a site photometric plan as required by Section 300.07 of the Porterville Development Ordinance is adopted as \$158 per photometric plan.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of January, 2014.

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Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk

**ATTACHMENT  
ITEM NO. 1**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF PORTERVILLE ESTABLISHING FEES FOR USE OF CARGO  
CONTAINERS AS TEMPORARY STRUCTURES

WHEREAS, On December 3, 2013, the City Council of the City of Porterville considered modifications to Resolution 29-2005 as it relates to cargo/shipping containers for non-residential uses; and

WHEREAS, during that meeting, the City Council adopted an amended resolution creating a provision for the use of cargo/shipping containers in two manners: as Temporary Non-Standard Development; Short Term, and as Temporary Non-Standard Development; Long Term; and

WHEREAS, the fee had not yet been determined or defined at the time of that meeting, and the City Council directed staff to return with recommended fees. Staff has since researched similar fees in other jurisdictions; and

WHEREAS, the proposed fee structure is based on staff time necessary to initiate review of temporary structures and then monitor on-going compliance in these specific cases. The recommended fee for use of cargo containers as temporary non-standard development is as follows: Short Term = \$296, Long Term = \$454 + \$79/month.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Porterville that the fees for use of cargo containers as temporary non-standard development as permitted in accordance with Resolution 82-2013 is adopted as Short Term= \$296, Long Term = \$454 + \$79/month.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of January, 2014.

\_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk

**ATTACHMENT**  
**ITEM NO. 2**