

LEGISLATIVE DIGEST

[Administrative Code - Local Implementation of the California Environmental Quality Act]

Ordinance amending the Administrative Code to simplify and streamline procedures for local compliance with the California Environmental Quality Act (CEQA), including removing shadow analysis as a specific type of environmental impact, reducing the time to appeal CEQA determinations to the Board of Supervisors from 30 to 15 days, and removing some procedures for environmental documents that are not required by CEQA; to implement recent changes in state law regarding the timing of compliance with CEQA; and affirming the Planning Department's determination under CEQA.

Existing Law

The California Environmental Quality Act (California Public Resources Code Sections 21000 et seq., "CEQA") and the guidelines for its implementation (California Code of Regulations Title 14, Chapter 3, Sections 15000 et seq., "Guidelines") mandate that public agencies consider the environmental impacts of their projects and adopt feasible mitigation measures and/or alternatives to address any significant impacts. Further, CEQA mandates that public agencies with the primary responsibility for carrying out or approving a project which may have significant impacts on the environment, known as lead agencies, adopt procedures to implement CEQA. Such procedures must be consistent with CEQA.

The Board of Supervisors adopted procedures for the local implementation of CEQA in Chapter 31 of the Administrative Code. The Board delegated authority to the Planning Department, and specifically the Environmental Review Officer, to undertake CEQA review for the City, as one lead agency. Chapter 31 has been amended from time to time to reflect changes in CEQA statutory and case law. Currently, Chapter 31 contains several requirements and processes that are not required by CEQA.

Amendments to Current Law

This Ordinance amends Chapter 31 to remove many of the current requirements and processes that are not mandated by CEQA. Specifically:

- Currently shadow impacts must be evaluated as part of CEQA review, in addition to the shadow analysis required by Planning Code Section 295. With these amendments, shadow impacts would no longer be required as part of CEQA review. Shadow analysis for Planning Code compliance under Planning Code Section 295 would not change.
- Chapter 31 requires multiple methods of public notification, depending on the level of CEQA review. These methods generally include publishing notices in a newspaper, mailing notices to occupants within a 300-foot radius of the project site, and posting

notices on the project site. With these amendments, no notice would be required for exemptions or addenda, and any one of three methods of public notification would be required for negative declarations or mitigated negative declarations and environmental impact reports, consistent with CEQA. All environmental determinations will continue to be posted on the Planning Department's website.

- Currently, Chapter 31 allows administrative appeals that are not required by CEQA, including appeals to the Planning Commission after the issuance of a preliminary negative declaration or mitigated negative declaration; appeals to the Environmental Review Officer for "No Substantial Modification" determinations for projects that have already been determined to be exempt; and appeals to the Planning Commission for updates to the "Not a Project" list. These administrative appeals would be eliminated.
- Currently, Chapter 31 mandates that the Planning Commission must hold a public hearing to review each draft environmental impact report. The Planning Commission would no longer be required to hold a public hearing to review draft environmental impact reports; public comments will be accepted in writing.
- Chapter provides 30 days to appeal the following CEQA documents such as exemption determinations, negative declarations or mitigated negative declarations and environmental impact reports to the Board of Supervisors. These appeal periods for these documents would be shortened to 15 days.
- Chapter 31 currently does not include time limits for the Board of Supervisors to issue written findings if it upholds a CEQA appeal. The Ordinance would impose a two-week period for the Board to act. If the Board is in recess or there is no quorum, the Ordinance mandates that the Board make written findings at the next hearing in which a quorum is present.

The Ordinance makes other changes that are intended to explicitly clarify current practices that are consistent with CEQA – for example, that when the Board of Supervisors is the first decision-making body on a project, no CEQA appeal is required; or that mitigation measures can in some circumstances be refined or updated.

In addition, the Ordinance provides that if a project applicant adequately provides notice under A.B. 1633, a state law that makes CEQA denials or delays disapprovals under the Housing Accountability Act, the City shall issue a lawful determination regarding the project within 90 days of that notice, or within 180 days of the notice if an extension has been invoked.

Background Information

The Ordinance contains ample findings explaining the rationale for these amendments, including the goal to simplify and streamline CEQA procedures to more closely align with state law and guidance, and to implement the City's housing element.