

1 [Repeal of Planning Commission alternative review process.]

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3 **Ordinance amending Planning Code Section 306 and Administrative Code Sections**
4 **2A.53 and 31.04 to repeal provisions that are void by their own terms and concern an**
5 **alternative review process if the Planning Commission were unable to meet because a**
6 **majority of its members has not been nominated, approved, and sworn in to office.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Planning Code is hereby amended by repealing certain
12 provisions of Section 306, to read as follows:

13 SEC. 306. APPLICATIONS AND HEARINGS.

14 ~~(a) General.~~ In case of an amendment to the Planning Code or General Plan, interim
15 control, conditional use or variance action described in Sections 302 through 305, 306.7 and
16 340 of this Code, the procedures for applications and hearings shall be as described in
17 Sections 306 through 306.7. In addition, the Zoning Administrator and the Planning
18 Commission may from time to time establish policies, rules and regulations which further
19 define these procedures.

20 ~~(b) Alternative Review Process. The following alternative review process shall apply in the~~
21 ~~event that the Planning Commission is unable to meet because a majority of its members has not been~~
22 ~~nominated, approved, and sworn in to office under the provisions of Section 4.105 of the San Francisco~~
23 ~~Charter. This alternative review process shall go into effect immediately under the provisions of~~
24 ~~Charter Section 2.107. It shall apply notwithstanding any other provision of this Code, including, but~~
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1 ~~not limited to, the provisions of Article 2, Article 3, Article 10, and Article 11; provided, however, the~~
2 ~~alternative review process shall not apply to those matters that require a hearing before the Planning~~
3 ~~Commission under a voter enacted ordinance. All public notice required by this Code for hearings~~
4 ~~before the Planning Commission shall be given, and the alternative review process established by this~~
5 ~~ordinance shall be described in such notice.~~

6 ~~—— (i) Planning Code Amendments. Notwithstanding the requirements of Section 4.105 of the San~~
7 ~~Francisco Charter and Sections 302 and Sections 306.1 et seq. of the Planning Code, a hearing and~~
8 ~~determination by the Planning Commission shall not be required for amendments to the Planning Code~~
9 ~~proposed under Planning Code Section 302(b) by the Board of Supervisors or by application of one or~~
10 ~~more interested property owners, residents or commercial lessees or their authorized agents. A~~
11 ~~recommendation on the proposed Planning Code amendment shall be made instead by the Planning~~
12 ~~Director, who shall make the findings required by Planning Code Section 302(e), and whose decision~~
13 ~~shall be presented to the Board of Supervisors by the Director or appealed to the Board by the~~
14 ~~applicant therefor as provided by Planning Code Sections 302(e) and 308.1.~~

15 ~~In the case of proposed amendments to the Planning Code initiated by the Board of Supervisors under~~
16 ~~Section 302(b), the Director's recommendation shall be rendered within 30 days from the date of the~~
17 ~~Board's referral of the proposed amendment to the Department. Failure of the Director to act within~~
18 ~~the prescribed time shall be deemed to constitute disapproval, except that the Board may, by resolution,~~
19 ~~extend the prescribed time within which the Director may make his decision. If, after receiving the~~
20 ~~Director's recommendation, or the time for the Director to act has expired, the Board adopts a motion~~
21 ~~proposing to materially modify the amendment, such amendment and the motion proposing~~
22 ~~modification shall be referred back to the Director for consideration and the proposed modification~~
23 ~~shall be reviewed under the requirements then applying to review of Planning Code amendments.~~

1 ~~—— (b) Discretionary Review. Planning Commission policies that mandate a discretionary review~~
2 ~~hearing not otherwise required by this Code shall be heard by the Director at a public hearing. If a~~
3 ~~request for a Planning Commission discretionary review hearing under Section 311, Section 312, or~~
4 ~~other section of this Code or the San Francisco Municipal Code has been made, a recommendation on~~
5 ~~the request shall be made by the Planning Director, who shall hold a public hearing on the matter as~~
6 ~~soon as feasible given required noticing and calendaring of a hearing, take testimony on the matter and~~
7 ~~take into consideration any written comments provided by the discretionary review requestor(s), the~~
8 ~~permit applicant, and members of the public.~~

9 ~~—— The Director's recommendation shall be issued in writing no later than 10 working days after~~
10 ~~the public hearing. The Director shall mail notice of the written recommendation upon issuance to the~~
11 ~~permit applicant, the discretionary review requestor(s), and any party who has made a prior written~~
12 ~~request for notice of the decision, and the Department shall not take action on the permit until the 15-~~
13 ~~day period for filing a request for review by the Board of Supervisors has expired.~~

14 ~~—— Any person may request a hearing by the Board of Supervisors to review the Director's~~
15 ~~discretionary review recommendation. Such request for review shall be filed within 15 days of the date~~
16 ~~the Director's recommendation was issued. The Board may uphold, modify, or overrule the Director's~~
17 ~~recommendation by a vote of six members. If no request for review by the Board is made within the 15-~~
18 ~~day period, or if the Board does not act on the matter within 45 days from the filing of the request for~~
19 ~~hearing, the Director's recommendation shall become the final decision. The Director's~~
20 ~~recommendation shall also become the final decision if this emergency ordinance expires after the~~
21 ~~issuance of the Director's recommendation but prior to the expiration of the 15-day period for appeal~~
22 ~~of the Director's recommendation to the Board of Supervisors.~~

23 ~~—— (iii) Conditional Use Authorization. By providing written notice to the Director, an applicant~~
24 ~~for a new conditional use authorization or modification to an existing conditional use under Section~~
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1 ~~303 of this Code may elect to waive a Planning Commission hearing and accept the Director's decision~~
2 ~~on the application. The Director shall cause notice of the applicant's election to waive a public hearing~~
3 ~~before the Planning Commission and hold a Director's hearing to be given to all persons entitled to~~
4 ~~receive notice of a public hearing on the application; such notice shall be provided in the manner~~
5 ~~required by this Code for notice of the hearing, except that the posting, mailing, and newspaper notice~~
6 ~~shall be given ten days prior to the Director's hearing.~~

7 ~~—— In making a decision, the Director shall make the findings required by Section 303. The~~
8 ~~Director shall hold a public hearing to take testimony on the matter and shall also take into~~
9 ~~consideration any written comments provided by the applicant for the conditional use and by members~~
10 ~~of the public. The Director's decision shall be issued in writing within 10 working days after the~~
11 ~~Director's hearing. The Director shall mail notice of the decision to the applicant, and any party who~~
12 ~~has made a prior written request for notice of the decision.~~

13 ~~In the event that the applicant elects to invoke this section, either the applicant or a member of the~~
14 ~~public has the right to appeal the decision to the Board of Supervisors under Planning Code Section~~
15 ~~308.1.~~

16 ~~—— (iv) Exceptions to Code. During the time this emergency ordinance is operative, an application~~
17 ~~for exceptions to the Planning Code requiring a hearing by the Planning Commission under Article 2,~~
18 ~~Article 3, or any other provision of this Code shall be heard and decided by the Zoning Administrator~~
19 ~~under the notice and hearing requirements of Planning Code Section 305. For this purpose, the Zoning~~
20 ~~Administrator shall be deemed to be acting in lieu of the Planning Commission and the Zoning~~
21 ~~Administrator's decision shall be appealable in accordance with the appeal provisions set forth in this~~
22 ~~Code for such matter.~~

23 ~~—— (v) Institutional Master Plans; General Plan Amendments. The existing provisions of Planning~~
24 ~~Code Sections 304.5 and 340 shall continue to apply during the time this emergency ordinance is~~

1 ~~operative; provided, however, in the event an update to the City's General Plan is mandated to be~~
2 ~~completed by State law during the period of time this emergency ordinance is operative, the~~
3 ~~Department shall forward the proposed General Plan amendments to the Board under the provisions of~~
4 ~~Section 340, without a hearing by the Planning Commission; and further provided that in the case of an~~
5 ~~abbreviated institutional master plan, the Director may determine whether it is in the public interest to~~
6 ~~hold a hearing before the Commission.~~

7 ~~—— (vi) Historic Preservation. Determinations to be made by the Planning Commission under~~
8 ~~Articles 10 and 11 of Planning Code shall be made by the Planning Director and either transmitted to~~
9 ~~the Board by the Director or appealed to the Board by interested parties, as provided by Articles 10~~
10 ~~and 11. The Director shall give the public notice required by the Code for a hearing by the Planning~~
11 ~~Commission, and the alternative procedure established by this emergency ordinance shall be described~~
12 ~~in such notice.~~

13 Section 2. The San Francisco Administrative Code is hereby amended by repealing
14 certain provisions of Section 2A.53, to read as follows:

15 SEC. 2A.53. GENERAL PLAN REFERRALS.

16 (a) General. The Charter requires that the Planning Department prepare written
17 reports regarding the conformity with the General Plan for the use of the Board of Supervisors
18 prior to its action on the acquisition, vacation, sale, change in use or title of public property,
19 subdivision of land, construction or improvement of public buildings or structures, plans for
20 public housing or public-assisted private housing, or redevelopment project plans, within the
21 City and County.

22 (b) Purpose. The General Plan is a compendium of policies on all aspects of the
23 City and County's physical development, formulated with extensive public participation,
24 adopted by the Planning Commission, and approved by the Board of Supervisors. In order to
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1 implement the public policy contained in the General Plan, the following procedures will be
2 used in determining consistency with the General Plan and reporting the findings to the Board
3 of Supervisors in a timely manner prior to action on the proposal. Early involvement of the
4 Planning Department in the planning of a project or plan is advisable to avoid delays. The
5 Planning Department is available to provide policy analysis reports on issues concerning the
6 physical development of the city as a proactive information tool for decision-making and
7 analysis of applicable public policy as contained in the General Plan.

8 (c) Applicability. The following actions by the Board of Supervisors require a written
9 report from the Planning Department on the consistency of the proposed action with the
10 General Plan:

11 (1) Proposed ordinances and resolutions concerning the acquisition,
12 extension, widening, narrowing, removal, relocation, vacation, abandonment, sale or change
13 in the use of any public way, transportation route, ground, open space, building, or structure
14 owned by the City and County;

15 (2) Subdivisions of land within the City and County;

16 (3) Projects for the construction or improvement of public buildings or
17 structures within the City and County, the annual capital expenditure plan, six-year capital
18 improvement program, a capital improvement project or a long-term financing proposal such
19 as, but not limited to, general obligation or revenue bonds or nonprofit corporation proposals;

20 (4) Project plans for public housing, or publicly assisted private housing in
21 the City and County;

22 (5) Redevelopment project plans within the City and County;

23 (6) Programs and schedules which link the General Plan to the allocation of
24 local, State and federal resources; and
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(7) Any substantial change to any of the above actions.

(d) Application. Property owners, public agencies and their respective agents shall initiate General Plan referrals by filing a completed application containing all required information with the Planning Department and paying an initial fee set forth in the Planning Code. The remainder of the fee, based on time and materials, shall be paid prior to the transmittal of the General Plan referral report to the applicant or Board of Supervisors. The Planning Department shall determine whether the application is complete and shall notify the applicant and, in the case of an incomplete application, request the necessary information.

(e) Determination. For most General Plan referral applications, a written General Plan referral report stating that a proposed action is consistent with the General Plan, shall be transmitted to the applicant for submittal with the proposal to the Board of Supervisors in 45 days after accepting a complete application. If the response requires more than 45 days because of environmental review procedures, the complexity of the proposed action, public controversy generated by the proposal, or a public hearing before the Planning Commission, the Department shall notify the applicant and Board of Supervisors.

Proposals which are inconsistent with the General Plan, complex or have generated public controversy, shall require a public hearing and determination by the Planning Commission; ~~provided, however, if the Planning Commission is unable to meet because a majority of its members has not been nominated, approved, and sworn in to office under Section 4.105 of the San Francisco Charter, such General Plan referral report shall be made by the Department.~~ The Planning Commission resolution finding a proposal in conformity with the General Plan shall be submitted to the Board of Supervisors and the applicant within five business days after receipt of payment.

1 (f) Board of Supervisor Action. Resolutions or motions for actions listed under
2 Subsection (c) of this Section shall include a finding of consistency with the General Plan. The
3 Planning Commission or Department's disapproval of a proposed action may be overruled by
4 a vote of not less than two-thirds of the members of the Board of Supervisors.

5 Section 3. The San Francisco Administrative Code is hereby amended by repealing
6 certain provisions of Section 31.04, to read as follows:

7 SEC. 31.04. RESPONSIBILITY.

8 (a) The City and all its officials, boards, commissions, departments, bureaus
9 and offices shall constitute a single "local agency," "public agency" or "lead agency" as those
10 terms are used in CEQA; except that the San Francisco Redevelopment Agency shall be a
11 separate "local agency" or "public agency" as specified in CEQA. With regard to
12 establishment of any redevelopment area, the City shall be the "lead agency."

13 (b) The administrative actions required by CEQA with respect to the
14 preparation of environmental documents, giving of notice and other activities, as specified in
15 this Chapter, shall be performed by the San Francisco Planning Department as provided
16 herein, acting for the City.

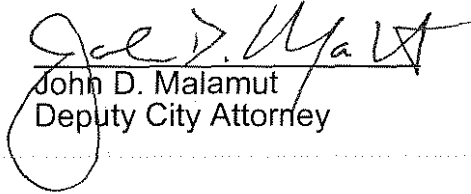
17 (c) Where adoption of administrative regulations by resolution of the
18 Planning Commission after public hearing is specified herein, there shall be notice by
19 publication in a newspaper of general circulation in the City at least twenty (20) days prior to
20 the hearing and by posting in the offices of the Planning Department, with copies of the
21 proposed regulations sent to the Board of Supervisors and any other affected boards,
22 commissions and departments of the City and to all organizations and individuals who have
23 previously requested such notice in writing. The decision of the Commission in adopting
24 administrative regulations shall be final.

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(d) The City shall be responsible for conducting environmental review for projects undertaken by the City within the City's territorial limits and for projects undertaken by the City outside the territorial limits of the City.

~~(e) Notwithstanding anything to the contrary contained in this Chapter 31, in the event the Planning Commission is unable to meet because a majority of its members has not been nominated, approved, and sworn in to office under Section 4.105 of the San Francisco Charter, any appeal of a negative declaration shall be heard by the Director of Planning, whose decision shall be final unless appealed to the Board of Supervisors within 15 days of the date of the decision. Certification of an environmental impact report shall be heard by the Board of Supervisors instead of the Planning Commission only if such environmental impact report has already come before the Board on appeal under Section 31.16 of this Code and then remanded to the Planning Department for modification. Such decision of the Board shall not be subject to a further appeal under Section 31.16.~~

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
John D. Malamut
Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 061537

Date Passed:

Ordinance amending Planning Code Section 306 and Administrative Code Sections 2A.53 and 31.04 to repeal provisions that are void by their own terms and concern an alternative review process if the Planning Commission were unable to meet because a majority of its members has not been nominated, approved, and sworn in to office.

June 26, 2007 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

July 10, 2007 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 061537

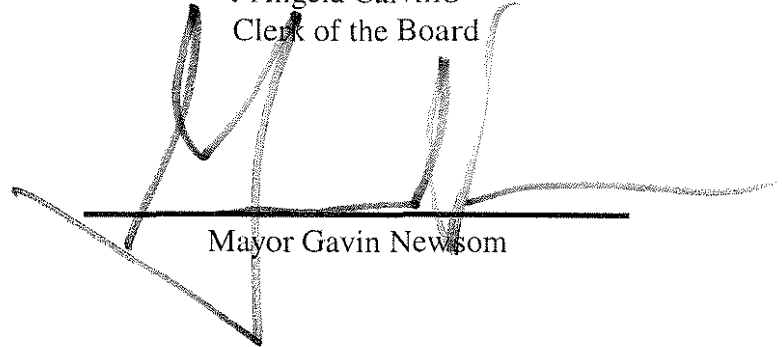
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on July 10, 2007 by
the Board of Supervisors of the City and
County of San Francisco.



Angela Calvillo
Clerk of the Board

JUL 20 2007

Date Approved



Mayor Gavin Newsom