

1 [Administrative Code - California Environmental Quality Act Procedures, Appeals, and Public
2 Notice]

3 **Ordinance amending Administrative Code Chapter 31 to provide for appeals to the**
4 **Board of Supervisors of certain environmental documents and determinations under**
5 **the California Environmental Quality Act, to clarify procedures and to provide public**
6 **notice of environmental documents and determinations.**

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8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strike-through italics Times New Roman*~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

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

11 Section 1. The San Francisco Administrative Code is hereby amended by amending
12 Section 31.01, to read as follows:

13 SEC. 31.01. - AUTHORITY AND MANDATE.

14 (a) This Chapter is adopted pursuant to the California Environmental Quality Act, Public
15 Resources Code Sections 21000 and following, as amended; and pursuant to the Guidelines
16 for Implementation of the California Environmental Quality Act, as amended, appearing as
17 Title 14, Division 6, Chapter 3 of the California Code of Regulations (hereinafter referred to
18 collectively as CEQA). CEQA provides for the orderly evaluation of projects and preparation of
19 environmental documents, and requires adoption of corresponding objectives, criteria and
20 procedures by local agencies.

21 (b) Any amendments to CEQA adopted subsequent to the effective date of this Chapter
22 31 shall not invalidate any provision of this Chapter 31. Any amendments to CEQA that may
23 be inconsistent with this Chapter 31 shall govern until such time as this Chapter 31 may be
24 amended to remove such inconsistency. When state law is amended or the CEQA guidelines are
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1 modified in a manner that creates an inconsistency with Chapter 31, the City Attorney shall notify the
2 Board of Supervisors within 30 days. Notwithstanding any other provision of law, the Clerk of the
3 Board of Supervisors shall schedule a hearing in the Land Use Committee, or its successor, within 90
4 days, to discuss whether to initiate amendments to this Chapter 31. The committee, or any other entity
5 authorized by City Charter, may introduce legislation to reconcile Chapter 31 with new state law or the
6 CEQA Guidelines.

7 (c) This Chapter shall govern in relation to all other ordinances of the City of San
8 Francisco ("City") and rules and regulations pursuant thereto. In the event of any
9 inconsistency concerning either public or private actions, the provisions of this Chapter shall
10 prevail.

11 Section 2. The San Francisco Administrative Code is hereby amended by amending
12 Section 31.02, to read as follows:

13 SEC. 31.02. - POLICIES AND OBJECTIVES.

14 The basic purposes of CEQA and this Chapter 31 are to:

15 (a) Provide decision makers and the public with meaningful information regarding the
16 environmental consequences of proposed activities.

17 (b) Identify ways that environmental damage can be avoided or significantly reduced.

18 (c) Provide for public input in the environmental review process.

19 (d) Bring environmental considerations to bear at an early stage of the planning
20 process, and to avoid unnecessary delays or undue complexity of review. Simplicity and
21 directness are to be emphasized, with the type of review related to the depth and variety of
22 environmental issues raised by a project, so that government and public concern may be
23 focused upon environmental effects of true significance.

24 (e) Provide procedural direction on implementation of CEQA by the City.

1 (f) Prevent significant avoidable damage to the environment by requiring changes in
2 projects through the use of alternatives or mitigation measures when the government agency
3 finds the changes to be feasible.

4 (g) Disclose to the public the reasons why a governmental agency approved the project
5 in the manner the agency chose if significant environmental effects are involved.

6 (h) Resolve appeals of decisions of nonelected decision-making bodies in a fair and timely
7 manner.

8 Section 3. The San Francisco Administrative Code is hereby amended by amending
9 Section 31.04, to read as follows:

10 SEC. 31.04. - RESPONSIBILITY.

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

16 (b) The administrative actions required by CEQA with respect to the preparation of
17 environmental documents, giving of notice and other activities, as specified in this Chapter,
18 shall be performed by the San Francisco Planning Department as provided herein, acting for
19 the City. For appeals to the Board of Supervisors, the Clerk of the Board of Supervisors shall perform
20 any administrative functions necessary for resolution of the appeal. The Historic Preservation
21 Commission shall have the authority to review and comment on all environmental documents and
22 determinations.

23 (c) Where adoption of administrative regulations by resolution of the Planning
24 Commission after public hearing is specified herein, there shall be notice by publication in a
25 newspaper of general circulation in the City at least twenty (20) days prior to the hearing and

1 by posting in the offices of the Planning Department, with copies of the proposed regulations
2 sent to the Board of Supervisors and any other affected boards, commissions and
3 departments of the City and to all organizations and individuals who have previously
4 requested such notice in writing. The decision of the Commission in adopting administrative
5 regulations shall be final.

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

9 Section 4. The San Francisco Administrative Code is hereby amended by amending
10 Section 31.08, to read as follows:

11 SEC. 31.08. ~~CATEGORICAL~~ EXEMPTIONS.

12 (a) CEQA provides that certain kinds of projects are statutorily exempt from
13 CEQA and that certain classes of projects generally do not have a significant effect on the
14 environment and therefore are categorically exempt from CEQA, in accordance with the letter
15 and the intent expressed in the classes of categorical exemptions specified in CEQA, and that a
16 common sense exemption applies under the general rule that only projects with the potential for
17 causing a significant-effect on the environment are subject to CEQA, as set forth in CEQA Guidelines
18 Section 15061(b)(3) (referred to in this Chapter 31 as the "general rule exclusion"). For categorical
19 exemptions, each public agency must list the specific activities that fall within each such class,
20 subject to the qualification that these lists must be consistent with both the letter and the intent
21 of the classes set forth in CEQA. ~~Except as provided in this section 31.08, projects that are~~
22 ~~categorically exempt are not subject to the requirements of this Chapter 31.~~

23 (b) The Environmental Review Officer shall maintain the required list of types
24 of projects that ~~which~~ are categorically exempt, and such list shall be kept posted in the offices
25 of the Planning Department. Such list shall be kept up to date in accordance with any

1 changes in CEQA and any changes in the status of local projects. The initial list and any
2 additions, deletions and modifications thereto shall be adopted as administrative regulations
3 by resolution of the Planning Commission after public hearing, according to the procedure set
4 forth in Section 31.04(c) of this Chapter.

5 (c) CEQA provides for public agencies to request additions, deletions and
6 modifications to the classes of projects listed as categorically exempt in CEQA. The Planning
7 Commission or the Historic Preservation Commission shall make any such requests, after a
8 public hearing thereon held according to the procedure specified in Section 31.04(c) of this
9 Chapter for adoption of administrative regulations.

10 (d) The Environmental Review Officer may adopt necessary forms, checklists
11 and processing guidelines to aid the Planning Department and other departments in
12 determining that a project may be statutorily exempt, categorically exempt or subject to a general
13 rule exclusion, in accordance with the letter and the intent expressed in ~~the classes of categorical~~
14 ~~exemptions specified in~~ CEQA and with the administrative regulations adopted by the Planning
15 Commission.

16 (e) The Environmental Review Officer shall advise other departments of the
17 statutory exemptions, categorical exemptions and general rule exclusions. The Environmental
18 Review Officer may delegate the determination whether a project is subject to a general rule
19 exclusion, statutory exemption or categorical exemption from CEQA to other departments,
20 provided that other departments shall consult with the Environmental Review Officer regarding
21 the application of the general rule exclusion, statutory exemption and categorical exemption, and
22 provided further that the Environmental Review Officer shall be responsible for all
23 determinations so delegated to other departments. When the Planning Department or other City
24 department determines that a project is statutorily exempt from CEQA, categorically exempt from
25 CEQA, or covered by the general rule exclusion (hereinafter referred to in this Chapter 31 as the

1 "exemption determination") the issuance of the exemption determination shall be considered an
2 exemption determination by the Environmental Review Officer.

3 (f) ~~When the Environmental Review Officer, or any other department to which the~~
4 ~~Environmental Review Officer has delegated responsibility pursuant to Section 31.08(e) above, or such~~
5 ~~other department has determined that a project is excluded or categorically exempt from CEQA, The~~
6 Environmental Review Officer shall issue a Certificate of Determination of Exemption from
7 Environmental Review and provide written notice thereof to the public ~~shall be provided~~ for all ~~such~~
8 exemption determinations involving the following types of projects: (1) any historical resources
9 as defined in CEQA, including without limitation, any buildings and sites listed individually or
10 located within districts listed (i) in Planning Code Articles 10 or 11, (ii) in City-recognized
11 historical surveys, (iii) on the California Register, or (iv) on the National Register of Historic
12 Places; (2) any Class 31 categorical exemption; (3) any demolition, as defined in Planning Code
13 Section 1005(f), of an existing structure; or, (5) any
14 alterations to a building fifty (50) years or older. ~~Written determinations of categorical exemptions All~~
15 exemption determinations for these types of projects shall be in writing and shall be posted in the
16 offices of the Planning Department and on the Planning Department's website, and shall be
17 mailed to any individuals or organizations that have previously requested such notice in
18 writing.

19 (g) Except for those Certificates of Determination of Exemption required pursuant to
20 Section 31.08(f) above, when ~~When~~ the Environmental Review Officer, or any other
21 department to which the Environmental Review Officer has delegated responsibility pursuant
22 to Section 31.08(e) above, has made an exemption determination, the Environmental Review
23 Officer may issue a Certificate of Determination of Exemption from Environmental Review
24 which shall be posted in the offices of the Planning Department and on the Planning
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1 Department website, and shall be mailed to the applicant, the board(s), commission(s) or
2 department(s) that will carry out or approve the project, and shall be mailed to any individuals
3 or organizations that have previously requested such notice in writing.

4 (h) In addition to the notice requirements set forth in subsections (f) and (g) above,
5 when the Planning Department or other City department provides any public notice of a proposed
6 approval action related to a project that is the subject of an exemption determination and advises the
7 public of a scheduled public hearing before the Planning Commission, the Zoning Administrator or
8 other City board or commission, as applicable, the notice shall (1) inform the public of the exemption
9 determination, including the nature of the exemption determination, and (2) provide information as to
10 how the public may obtain a copy of the exemption determination and (3) inform the public that any
11 person who wishes to object to the exemption determination may raise such objection before the
12 Planning Commission, the Zoning Administrator, or other City board or commission, as applicable.

13 (h)(i) The Planning Commission, the Historic Preservation Commission, the Zoning
14 Administrator or other City board or commission, as applicable, may shall be required to take
15 testimony on any ~~categorical~~ exemption determination at the public hearing, if any, in connection
16 with the Planning Commission's consideration of on the project that is the subject of the categorical
17 exemption determination. Testimony on the exemption determination, if any is requested, shall be
18 allowed prior to and separate from the consideration of the project.

19 (j) Following the issuance of the final discretionary permit or other final approval of
20 the project that is the subject of an exemption determination, the Environmental Review Officer may
21 issue a Notice of Exemption. Any such Notice of Exemption which shall be posted as required by
22 CEQA, shall be posted in the offices of the Planning Department and on the Planning Department
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1 website, shall be mailed to the applicant, the board(s), commission(s) or department(s) that will carry
2 out or approve the project, and shall be mailed to any individuals or organizations that have previously
3 requested such notice in writing. A Notice of Exemption shall not be filed until after the final
4 discretionary project approval and the appeal period for the exemption determination has expired or
5 any appeals have ~~has~~ been finally resolved and the exemption determination becomes final.

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7 Section 5. The San Francisco Administrative Code is hereby amended by amending
8 Section 31.10, to read as follows:

9 SEC. 31.10. INITIAL EVALUATION OF PROJECTS.

10 (a) Upon receiving an environmental evaluation application for a project, or upon
11 referral of a project by the board, commission or department that is to carry out or approve the
12 project, the Environmental Review Officer shall determine whether such project is exempt
13 from environmental review. If not exempt, the Environmental Review Officer shall complete an
14 initial study to determine the level of environmental analysis required. In the event it is clear at
15 the outset that an environmental impact report is required, the Environmental Review Officer
16 may, with the consent of the applicant, make an immediate determination and dispense with
17 the initial study. Each environmental evaluation application or referral shall include a project
18 description using as its base the environmental information form set forth as Appendix H of
19 the CEQA Guidelines, which form shall be supplemented to require additional data and
20 information applicable to a project's effects, including consistency with the environmental
21 issues included in the Eight Priority Policies set forth in Section 101.1 of the Planning Code
22 and incorporated into the General Plan, shadow impacts, including the analysis set forth in
23 Planning Code Section 295, and such other data and information specific to the urban
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1 environment of San Francisco or to the specific project. Each environmental evaluation
2 application or referral shall be certified as true and correct by the applicant or referring board,
3 commission or department. Each initial study shall include an identification of the
4 environmental effects of a project using as its base the environmental checklist form set forth
5 in Appendix G of the CEQA Guidelines and addressing each of the questions from the
6 checklist form that are relevant to a project's environmental effects; provided that the checklist
7 form shall be supplemented to address additional environmental effects, including consistency
8 with the environmental issues included in the Eight Priority Policies set forth in Section 101.1
9 of the Planning Code and incorporated into the General Plan, shadow impacts, including the
10 analysis set forth in Planning Code Section 295, and such other environmental effects specific
11 to the urban environment of San Francisco or to the specific project.
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13 (b) The initial study shall provide data and analysis regarding the potential for the
14 project to have a significant effect on the environment. The basic criteria for determination of
15 significant effect shall be consistent with the provisions set forth in CEQA.
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17 (c) The applicant or the board, commission or department that is to carry out or
18 approve the project shall submit to the Environmental Review Officer such data and
19 information as may be necessary for the initial study. If such data and information are not
20 submitted, the Environmental Review Officer may suspend work on the initial evaluation.
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22 (d) During preparation of the initial study, the Environmental Review Officer may
23 consult with any person having knowledge or interest concerning the project. In cases in
24 which the project is to be carried out or approved by more than one government agency and
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1 the City is the lead agency, the Environmental Review Officer shall solicit input from all other
2 government agencies that are to carry out or approve the project.

3 (e) If a project is subject to CEQA and the National Environmental Policy Act, an
4 initial evaluation prepared pursuant to the National Environmental Policy Act may be used to
5 satisfy the requirements of this Section.

6 (f) Based on the analysis and conclusions in the initial study, the Environmental
7 Review Officer shall determine, based on the requirements of CEQA, whether there is a "fair
8 argument" that the project could have a significant effect on the environment and whether a
9 negative declaration or environmental impact report shall be prepared.

11 ~~————— (f) ——— Based on the analysis and conclusions in the initial study, the Environmental~~
12 ~~Review Officer shall determine, based on the requirements of CEQA, whether the project could have a~~
13 ~~significant effect on the environment, and whether a negative declaration or environmental impact~~
14 ~~report shall be prepared.~~

15 Section 6. The San Francisco Administrative Code is hereby amended by amending Section
16 31.11, to read as follows:

17 SEC. 31.11. - NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE
18 DECLARATIONS.

19 (a) When the Environmental Review Officer determines that a ~~any~~ negative declaration is
20 the appropriate level of environmental review, it shall be prepared by or at the direction of the
21 Environmental Review Officer. The negative declaration shall describe the project proposed,
22 include the location of the property, preferably shown on a map, and the name of the project
23 proponent, state the proposed finding that the project could not have a significant effect on the
24 environment, and have attached to it a copy of the initial study documenting reasons to
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1 support that finding. The negative declaration shall also indicate mitigation measures, if any,
2 included in the project to avoid potentially significant effects.

3 (b) The Environmental Review Officer shall first prepare a negative declaration on a
4 preliminary basis, and shall post a copy of the proposed negative declaration in the offices of
5 the Planning Department and mail notice thereof to the applicant and the board(s),
6 commission(s) or department(s) that will carry out or approve the project. In addition, the
7 Environmental Review Officer shall refer all preliminary negative declarations for projects that may
8 affect any historic resource, as defined by CEQA, to the Historic Preservation Commission for its
9 review and comment, which the Environmental Review Officer shall consider as part of the completion
10 of the negative declaration.

11 (c) The Environmental Review Officer shall provide a notice of intent to adopt a
12 negative declaration or mitigated negative declaration by publication in a newspaper of
13 general circulation in the City, by posting in the offices of the Planning Department and on the
14 subject site, by mail to the owners of all real property within the area that is the subject of the
15 negative declaration and within 300 feet of all exterior boundaries of such area, and by mail to
16 all organizations and individuals who have previously requested such notice in writing,
17 sufficiently prior to adoption of the negative declaration to allow the public and agencies a
18 review period of not less than twenty (20) days, or thirty (30) days if a 30-day circulation period
19 is required by CEQA. In the case of City-sponsored projects that involve rezonings, area plans or
20 General Plan amendments and are either citywide in scope or the total area of land that is part of the
21 project, excluding the area of public streets and alleys, is 5 acres or more, the Environmental Review
22 Officer shall not be required to mail notice to the owners within 300 feet of all exterior boundaries of
23 the project area. In the event the project that is the subject of the proposed negative declaration may
24 affect any historic resource as defined by CEQA, the Environmental Review Officer shall provide the
25 notice of intent to the Historic Preservation Commission and shall schedule a public hearing on the

1 negative declaration before the Historic Preservation Commission, which hearing shall be held at least
2 eight (8) days prior to approval of the negative declaration, in order to afford the Historic Preservation
3 Commission an opportunity to review and comment on the negative declaration prior to its approval.

4 (d) The notice of intent shall specify the period during which comments are to be
5 received, the date, time and place of any public hearings on the project, a brief description of
6 the project and its location, and the address where copies of the negative declaration and all
7 documents referenced in the negative declaration are available for review.

8 (e) Within twenty (20) days, or thirty (30) days if a 30-day circulation period is required by
9 CEQA, following the publication of such notice, any person may appeal the proposed negative
10 declaration to the Planning Commission, specifying the grounds for such appeal. Any person
11 may submit comments on the proposed negative declaration.

12 (f) The Planning Commission shall hold a public hearing on any such appeal within not
13 less than fourteen (14) nor more than thirty (30) days after the close of the appeal period.
14 Notice of such hearing shall be posted in the offices of the Planning Department, and shall be
15 mailed to the appellant, to the applicant, to the board(s), commission(s) or department(s) that
16 will carry out or approve the project, to any individual or organization that has submitted
17 comments on the proposed negative declaration, and to any other individual or organization
18 that has requested such notice in writing.

19 (g) After such hearing the Planning Commission shall affirm the proposed negative
20 declaration only if it finds that the record does not contain substantial evidence supporting a fair
21 argument that the project ~~could not~~ may have a significant effect on the environment. If it finds
22 that the record does support a fair argument, the Planning Commission shall make specific findings to:
23 ~~may refer the proposed negative declaration back to the Planning Department for revisions, or shall~~
24 ~~overrule~~ overturn the proposed negative declaration and order preparation of an environmental
25 impact report ~~if it finds that the project may have a significant effect on the environment.~~

1 (h) If the proposed negative declaration is not appealed as provided herein, or if it is
2 affirmed on appeal, the negative declaration shall be considered final, subject to any
3 necessary modifications. Thereafter, the first City decision-making body to act on approval of
4 the project shall review and consider the information contained in the final negative
5 declaration, together with any comments received during the public review process, and, upon
6 making the findings ~~as provided in~~ required by CEQA, shall adopt the negative declaration or
7 reject the negative declaration, in which case it may send it back for revisions, including proposed
8 mitigation measures, or request the preparation of an EIR, prior to approving the project. In the
9 event the first City decision-making body to act on approval of the project determines that the negative
10 declaration does not provide adequate information for the project to be approved, the decision-making
11 body shall make findings regarding such deficiencies and shall delay consideration of approval of the
12 project pending receipt of additional environmental information, or may disapprove the project. All
13 decision-making bodies shall review and consider the negative declaration and make findings
14 as required by CEQA prior to approving the project.

15 (i) If the City adopts a mitigated negative declaration, the decision-making body shall
16 also adopt a program for reporting on or monitoring the mitigation measures for the project
17 that it has either required or made a condition of approval to mitigate or avoid significant
18 environmental effects.

19 (j) After the City has decided to carry out or approve the project subject to a final negative
20 declaration, the Environmental Review Officer may file a ~~notice of determination~~ Notice of
21 Determination with the ~~e~~County ~~e~~Clerk in the county or counties in which the project is to be
22 located. If required by CEQA, the ~~notice of determination~~ Notice of Determination shall also be
23 filed with the California Office of Planning and Research. In the event the Environmental Review
24 Officer files a Notice of Determination with the County Clerk and/or the California Office of Planning
25 and Research, a copy of such notice shall also be posted in the offices of the Planning Department and

1 on the Planning Department website, and shall be mailed to any individuals or organizations who have
2 previously requested such notice in writing. A Notice of Determination shall not be filed until the
3 appeal period for the negative declaration has expired or an appeal has been finally resolved and
4 adoption of the negative declaration becomes final.

5 Section 7. The San Francisco Administrative Code is hereby amended by amending
6 Section 31.13, to read as follows:

7 SEC. 31.13. - DRAFT ENVIRONMENTAL IMPACT REPORTS.

8 (a) When an environmental impact report ("EIR") is required, it shall be prepared by
9 or at the direction of the Environmental Review Officer. The EIR shall first be prepared as a
10 draft report.

11 (b) The applicant or the board, commission or department that is to carry out or
12 approve the project shall submit to the Environmental Review Officer such data and
13 information as may be necessary to prepare the draft EIR. If such data and information are
14 not submitted, the Environmental Review Officer may suspend work on the draft EIR. The
15 data and information submitted shall, if the Environmental Review Officer so requests, be in
16 the form of all or a designated part or parts of the proposed draft EIR itself, although the
17 Environmental Review Officer shall in any event make his or her own evaluation and analysis
18 and exercise his or her independent judgment in preparation of the draft EIR for public review.

19 (c) During preparation of the draft EIR, the Environmental Review Officer may
20 consult with any person having knowledge or interest concerning the project. If he/she has not
21 already done so in accordance with Section 31.10 above, in cases in which the project is to be
22 carried out or approved by more than one public agency, the Environmental Review Officer
23 shall consult with all other public agencies that are to carry out or approve the project. For
24 projects that may affect an historic resource as defined by CEQA, or that may be subject to the
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1 approval of the Historic Preservation Commission, the Environmental Review Officer shall consult
2 with the Historic Preservation Commission.

3 (d) When the draft EIR has been prepared, the Environmental Review Officer shall
4 file a notice of completion of such draft as required by CEQA. A copy of such notice, or a
5 separate notice containing the same information, shall thereupon be posted in the offices of
6 the Planning Department and on the subject site, and mailed to the applicant, the board(s),
7 commission(s) or department(s) that will carry out or approve the project, and to any individual
8 or organization that has requested such notice in writing. The notice of completion shall be
9 sent by mail to the owners of all real property within the area that is the subject of the
10 environmental impact report and within 300 feet of all exterior boundaries of such area. In the
11 case of City-sponsored projects that involve rezonings, area plans or General Plan amendments and
12 are either citywide in scope or the total area of land that is part of the project, excluding the area of
13 public streets and alleys, is 5 acres or more, the Environmental Review Officer shall not be required to
14 mail notice to the owners within 300 feet of all exterior boundaries of the project area. A The Planning
15 Department shall provide a copy of the draft EIR ~~shall be provided~~ to the applicant and to such
16 board(s), commission(s) or department(s) and to any individual or organization that has so
17 requested.

18 Section 8. The San Francisco Administrative Code is hereby amended by amending
19 Section 31.14, to read as follows:

20 SEC. 31.14. - CONSULTATIONS AND COMMENTS.

21 (a) Notice shall be sent to public agencies with jurisdiction by law, and persons with
22 special expertise as follows: after filing a notice of completion as required by CEQA, the
23 Environmental Review Officer shall send a copy of the draft EIR to any public agencies as
24 required by CEQA, and may send copies to and consult with persons who have special
25 expertise with respect to any environmental impact involved. In the event the project which is the

1 subject of an EIR may affect any historic resource as defined by CEQA, the Environmental Review
2 Officer shall send a copy of the draft EIR to the Historic Preservation Commission for review and
3 comment, and shall schedule a public hearing before the Historic Preservation Commission to record
4 the Historic Preservation Commission's comments, which hearing shall be held at least eight (8) days
5 prior to the Planning Commission hearing on the draft EIR.

6 (b) In sending such copies, the Environmental Review Officer shall request
7 comments on the draft EIR from such agencies and persons, with particular focus upon the
8 sufficiency of the draft EIR in discussing possible effects on the environment, ways in which
9 adverse effects may be minimized, and alternatives to the project.

10 (c) Each notice and request for comments shall state that any comments must be
11 returned within a certain time after the sending of the draft EIR, and if comments are not
12 returned within that time it shall be assumed that the agency or person has no comment to
13 make. The time limit shall normally be thirty (30) days, or forty-five (45) days if required by
14 CEQA. The Environmental Review Officer may allow a longer period for comments on
15 projects of exceptional size or complexity. The Planning Commission or the Environmental
16 Review Officer may, upon the request of an agency or person from whom comments are
17 sought, grant an extension of time beyond the original period for comments, but such
18 extension shall not interfere with the holding of any hearing on the draft EIR for which notice
19 has already been given.

20 (d) Notice to the general public shall be provided as follows:

21 (1) Public participation, both formal and informal, shall be encouraged at all stages
22 of review, and written comments shall be accepted at any time up to the conclusion of the
23 public comment period. The Environmental Review Officer may give public notice at any
24 formal stage of the review process, beyond the notices required by this Chapter 31, in any
25 manner it may deem appropriate, and may maintain a public log as the status of all projects

1 under formal review. Members of the general public shall be encouraged to submit their
2 comments in writing as early as possible.

3 (2) The draft EIR shall be available to the general public upon filing of the notice of
4 completion.

5 (3) The Planning Commission shall hold a public hearing on every draft EIR, with
6 such hearing combined as much as possible with other activities of the Planning Commission.
7 The Environmental Review Officer may, upon delegation by the Planning Commission, take
8 testimony at supplemental public hearing(s) on draft EIRs, in addition to, and not in lieu of, the
9 hearing conducted by the Planning Commission, and shall report to and make all testimony
10 received by the Environmental Review Officer available to the Planning Commission at a
11 public hearing. Notice of the Planning Commission hearings and all hearings at which the
12 Environmental Review Officer takes testimony shall be given by publication in a newspaper of
13 general circulation in the City at least 30 days prior to the hearing, by posting in the offices of
14 the Planning Department, by posting on or near the site proposed for the project; and by mail
15 sent not less than 30 days prior to the hearing to the applicant, to the board, commission or
16 department that is to carry out or approve the project, and to any other individual or
17 organization requesting such notice.

18 (4) The draft EIR, including any revisions made prior to or during the public hearing,
19 shall be the basis for discussion at the hearing. To the extent feasible, any comments already
20 received from any agency, organization or individual shall be available at the public hearing.

21 Section 9. The San Francisco Administrative Code is hereby amended by amending
22 Section 31.15, to read as follows:

23 SEC. 31.15. - FINAL ENVIRONMENTAL IMPACT REPORTS.

24 (a) A final EIR shall be prepared by, or at the direction of, the Environmental Review
25 Officer, based upon the draft EIR, the consultations and comments received during the review

1 process, and additional information that may become available. The final EIR shall be made
2 available to the public and to the Historic Preservation Commission, if the project that is the
3 subject of an EIR may affect any historic resource as defined by CEQA, no less than fourteen
4 (14) days prior to the Planning Commission hearing on the final EIR, to consider certification of the
5 final EIR.

6 (b) The final EIR shall include a list of agencies and persons consulted, the
7 comments received, either verbatim or in summary, and a response to any comments that
8 raise significant points concerning effects on the environment. The response to comments
9 may take the form of revisions within the draft EIR, or by adding a separate section in the final
10 EIR, or by providing an explanation in response to the comment.

11 (c) A public record shall be kept of each case in which an EIR is prepared, including all
12 comments received in writing in addition to a record of the public hearing. The final EIR shall
13 indicate the location of such record. The Environmental Review Officer shall cause the hearing
14 record to be transcribed and retained as part of the hearing record..

15 (d) When the final EIR has been prepared and in the judgment of the Planning
16 Commission it is adequate, accurate and objective, reflecting the independent judgment and
17 analysis of the Planning Commission, the Planning Commission shall certify its completion in
18 compliance with CEQA. The certification of completion shall contain a finding as to whether
19 the project as proposed will, or will not, have a significant effect on the environment.

20 Section 10. The San Francisco Administrative Code is hereby amended by deleting
21 Section 31.16 in its entirety and adding new Section 31.16, to read as follows:

22 SEC. 31.16. APPEAL OF ENVIRONMENTAL DETERMINATIONS.

23 (a) In accordance with the provisions set forth in this Section 31.16, the following
24 CEQA determinations by any City commission, department, agency, or official may be appealed to the
25 Board of Supervisors (the "Board"): (1) Certification of a Final EIR by the Planning Commission; (2)

1 Adoption of a negative declaration or mitigated negative declaration (collectively referred to as a
2 “negative declaration”) by the first decision-making body; (3) Determination that a project is
3 categorically exempt from CEQA, (4) Determination that a project is statutorily exempt from CEQA
4 and (5) Determination that a general rule exclusion applies to a project, as set forth in CEQA
5 Guidelines Section 15061(b)(3).

6 (b) In addition to the applicable requirements of Section 31.16 (c), (d) or (e) below, the
7 following requirements shall apply to an appeal of any of the determinations listed in Section 31.16(a).

8 (1) A letter of appeal shall be submitted to the Clerk of the Board within the time frames set
9 forth in Subsections 31.16(c), (d) or (e), as applicable. The letter of appeal shall state the specific
10 grounds for appeal, and shall be accompanied by a fee, as set forth in Administrative Code Section
11 31.22, payable to the San Francisco Planning Department. Appellants shall sign the letter of appeal,
12 or may have an agent , authorized in writing, file an appeal on their behalf. Appellants shall submit
13 with the appeal a copy of the CEQA determination or CEQA decision that is being appealed.
14 Appellants shall submit a copy of the letter of appeal and any written materials in support of the appeal
15 to the Environmental Review Officer at the time appellants submit a letter of appeal to the Clerk of the
16 Board. The Clerk of the Board may reject an appeal if Appellants fail to comply with this subsection
17 31.16(b)(1).

18 (2) After receipt of the letter of appeal, the Environmental Review Officer shall transmit
19 copies of the environmental review documents not less than eleven (11) days prior to the scheduled
20 hearing to the Clerk of the Board and make the administrative record available to the Board.

21 (3) While the appeal is pending, the City shall not consider the approval of, or issue any
22 permits for, a project that is the subject of the appeal, provided that activities may be undertaken only
23 to the extent that they are essential to abate hazards to the public health and safety, including
24 abatement of hazards on a structure or site determined by the appropriate City official, including but
25 not limited to the Director of Building Inspection, the Director of Public Works, the Director of Public

1 Health, the Fire Marshal or the Port Chief Engineer, to be an emergency presenting an imminent
2 hazard to the public and requiring immediate action. In the event the Historic Preservation
3 Commission is in the process of considering a nomination of the project, or an area that includes the
4 project, as a landmark or historic district, the nomination and designation may proceed during the
5 pendency of the appeal to the Board of Supervisors.

6 (4) The Clerk of the Board shall schedule a hearing on the appeal before the full Board,
7 without regard to any rule or policy of the Board requiring a 30-day review period. The hearing shall
8 be held no less than twenty (20) and no more than thirty (30) days following the date upon which the
9 Clerk determines that the appeal is valid. If more than one person submits a letter of appeal on the
10 same decision or determination, the Board President may consolidate such appeals so that they are
11 heard simultaneously, and up to three (3) individual appellants shall have his or her own time for
12 testimony as if such appeals were not being heard simultaneously. Where the appeals are consolidated,
13 the Board shall provide appellants the same total time for testimony at the public hearing as provided
14 to the Applicant or Project Sponsor. The Board may coordinate its hearing on the CEQA appeal with
15 other hearings on the project, provided that the CEQA appeal is heard prior to and separate from the
16 other hearings on the project. Notice of the appeal shall be provided by mail to the appellants and to
17 all organizations and individuals who have previously requested such notice in writing, no less than ten
18 (10) days prior to the date the appeal is scheduled to be heard by the Board. The Planning Department
19 shall provide to the Clerk of the Board the list of individuals and organizations that have commented on
20 the decision or determination in a timely manner, no less than fifteen (15) days prior to the scheduled
21 hearing.

22 (5) Appellants shall submit written materials pertaining to the appeal to the Board and the
23 Environmental Review Officer no later than noon, fifteen (15) days prior to the scheduled hearing. The
24 Planning Department shall submit a written response to the Board no later than noon, ten (10) days
25 prior to the scheduled hearing. Additional written materials submitted no later than noon seven (7)

1 days prior to the scheduled hearing by members of the public, real parties in interest or City agencies
2 sponsoring the proposed project will be distributed to the Supervisors prior to the hearing as a part of
3 their hearing materials. Any written documents submitted after these deadlines and up to the close of
4 the hearing will be part of the record but will not be able to be distributed to the Supervisors prior to
5 the hearing as part of their hearing materials.

6 (6) The Board shall conduct its own independent review of the CEQA document including
7 the correctness of the findings contained in the determination. The Board shall consider anew all facts,
8 evidence and/or issues related to the adequacy, accuracy and objectiveness of the environmental
9 review and the CEQA determination and decision regarding such environmental review, including but
10 not limited to the sufficiency of the CEQA determination as an informational document and the
11 correctness of its conclusions. The Board shall consider the record before the Planning Commission,
12 the Environmental Review Officer or other City department, and shall also consider any new facts,
13 evidence and/or issues presented to it prior to the close of the appeal hearing.

14 (7) The Board shall act on an appeal within thirty (30) days of the date set for the hearing,
15 provided that if the full membership of the Board is not present on the last day on which said appeal is
16 set or continued for hearing within such thirty days, the Board may postpone said hearing and decision
17 thereon until, but not later than, the full membership of the Board is present; and provided further, if
18 the Board of Supervisors does not conduct at least three regular Board meetings during such 30 day
19 period, the Board of Supervisors shall decide such appeal within 40 days of the time set for the hearing
20 thereon; and provided further that the latest date to which said hearing and decision may be so
21 postponed shall be not more than ninety (90) days from the date of filing the appeal.

22 (8) The Board may affirm or reverse any CEQA decision or determination by a vote of a
23 majority of all members of the Board. If the Board affirms the CEQA decision or determination,
24 the decision or determination shall be final and may not be appealed again. A tie vote shall be
25 deemed to be disapproval of the CEQA decision or determination; provided, however, that in the event

1 of a tie vote the Board may continue its decision on the appeal to the next meeting at which the full
2 Board will be present to consider the appeal. The Board shall act by motion. The Board shall adopt
3 findings in support of its decision, and may adopt or reject findings made by the Planning Commission,
4 Environmental Review Officer or other City commission, agency, department or official authorized to
5 act on the CEQA decision or determination below. If the Board reverses the CEQA decision or
6 determination, the Board shall adopt specific findings setting forth the reasons for its decision to
7 reverse the decision or determination, which may include adoption and/or incorporation of the
8 Appellant's written materials or proposed findings in whole or part.

9 (9) In the event the Board reverses the CEQA decision or determination, the Board shall
10 remand the determination or decision to the Planning Commission or Planning Department. The
11 Planning Commission or Planning Department shall take such action as may be required by the
12 specific findings made by the Board and thereafter consider anew the remanded portions of its CEQA
13 decision or determination consistent with the Board's findings and the revised environmental
14 documents. Any further appeal shall be limited to the issues or areas of the decision or determination
15 that have been revised. The Board's subsequent review, if any, also shall be limited to the issues or
16 areas of the decision or determination that have been revised by the Planning Commission or Planning
17 Department. Any additional appeals to the Board shall comply with the procedures set forth in this
18 Section 31.16.

19 (10) The Board may reject an appeal if it finds the appeal fails to state proper grounds for
20 appeal or fails to comply with this Section 31.16. The Board shall act by motion in rejecting an appeal.

21 (11) The date of the final EIR, the final negative declaration, or exemption determination
22 shall be the date upon which the Planning Commission, Planning Department or other authorized City
23 department, as applicable, originally approved the environmental document or issued the
24 determination if an appeal is filed and the Board affirms the action of the Planning Commission,
25 Planning Department or other authorized City department, and the City approved the project prior to

1 the filing of the appeal; provided that a Notice of Exemption or Notice of Determination shall not be
2 filed or effective until the all appeal periods have has expired or any appeals have has been finally
3 resolved and the exemption determination, negative declaration or EIR has become final and the
4 project is-has been fully approved. If the City has not approved the project prior to the filing of an
5 appeal of an exemption determination, a negative declaration or an EIR, the date of the exemption
6 determination, negative declaration or EIR shall be the date upon which the Board acts to approve the
7 exemption determination, negative declaration or EIR.

8 (12) If the Board reverses the CEQA decision or determination, the prior decision or
9 determination, and approval actions for the project taken in reliance on the reversed CEQA
10 decision or determination, shall be deemed void.

11 (c) In addition to those requirements set forth in Section 31.16(b) above, the following
12 requirements shall apply only to appeals of EIRs.

13 (1) Appeal of a final EIR shall be by submission of a letter of appeal to the Clerk of the
14 Board within twenty (20) days after the Planning Commission's certification of the EIR.

15 (2) The grounds for appeal of an EIR shall be limited to issues related to the adequacy,
16 accuracy and objectiveness of the final EIR, including but not limited to the sufficiency of the final EIR
17 as an informational document and the correctness of its conclusions, and the correctness of the findings
18 contained in the Planning Commission's certification of the EIR.

19 (3) The Board shall affirm the Planning Commission's certification of the final EIR only if
20 the Board finds that the final EIR is adequate, accurate and objective, that its conclusions are correct,
21 and that the findings contained in the Planning Commission's certification motion are correct. If not,
22 the Board shall reverse the Planning Commission's certification of the EIR. If the Board reverses the
23 Planning Commission's certification of the final EIR, it shall make specific finding as to the reasons
24 that the final EIR is not adequate, accurate or objective and shall remand the final EIR to the Planning
25 Commission for further action consistent with the Board's findings.

1 (d) In addition to those requirements set forth in Section 31.16(b) above, the following
2 requirements shall apply only to appeals of negative declarations.

3 (1) Appeal of a negative declaration shall be by submission of a letter of appeal to the Clerk
4 of the Board within twenty (20) days after the adoption of the negative declaration. The grounds for
5 appeal of a negative declaration shall be limited to raising issues related to the adequacy and
6 completeness of the Initial Study, the environmental analysis, the correctness of the finding that the
7 project could not have a significant effect on the environment, and the adequacy and feasibility of any
8 proposed mitigation measures.

9 (2) When the Board makes its determination on the appeal of a negative declaration, the
10 Board shall affirm a negative declaration only if it finds that the record does not contain substantial
11 evidence supporting a fair argument that the project may have a significant effect on the environment.
12 If it finds that the record does support a fair argument that the project may have a significant effect on
13 the environment, the Board shall make specific findings to overturn the adoption of the negative
14 declaration and remand the negative declaration to the Planning Department for further action
15 consistent with the Board's findings.

16 (3) ~~In the event a negative declaration is remanded to the Planning Department,~~
17 Following the Board's determination on the appeal of a negative declaration, if the Planning
18 Department is required to prepare an EIR, it shall be prepared in accordance with the
19 procedures and requirements set forth in this Administrative Code. If the Planning
20 Department is not required to prepare an EIR, the Environmental Review Officer shall take action
21 consistent with the Board's direction. If the Board requires the negative declaration to be
22 revised, the Environmental Review Officer shall finalize the revised negative declaration and send
23 notice to the public, as set forth in Section 31.11, of the availability of the revised negative declaration.
24 No appeal to the Planning Commission of the revised negative declaration shall be required. In the
25 event an organization or individual wishes to appeal the revised negative declaration, such appeal

1 shall be made directly to the Board of Supervisors within twenty (20) days of publication of the revised
2 negative declaration.

3 (e) In addition to those requirements set forth in Section 31.16(b) above, the following
4 requirements shall apply to appeals to the Board of Supervisors of exemption determinations.

5 (1) Any person or entity may appeal an exemption determination within twenty (20)
6 days of the date that decision approving a discretionary permit for which notice is given
7 pursuant to Section 31.08(h) of the issuance of a public hearing to consider a discretionary
8 permit for the project. If no notice is provided, any person or entity may appeal an project's
9 exemption determination within twenty (20) days of after the final discretionary permit to be issued for
10 the project, provided that there is an appeal process for such discretionary permit and provided further
11 that such appeal shall be filed prior to the conclusion of any appeal period for such discretionary
12 permit, even if such the appeal period for the discretionary permit is less than twenty (20) days. In
13 no event shall such twenty (20) days commence to run before the date of an approval action
14 following the conclusion of any public hearing before the Planning Commission, Zoning
15 Administrator or other City commission or board for which the Planning Department or other
16 City department provided a public notice of an intent to rely on the exemption determination
17 for the project approval action and advised the public of an opportunity for a public hearing on
18 the proposed project. For purposes of a determination made with respect to an ordinance, the full
19 Board shall consider the Planning Department's recommended exemption determination at a public
20 hearing as the Board's CEQA determination, and shall affirm or reject the CEQA determination prior
21 to and separate from, as part of its consideration of the ordinance and no separate appeal shall be
22 required.

23 (2) The Board shall affirm an exemption determination only if it finds, as applicable, that
24 the project conforms to the requirements set forth in CEQA for the exemption determination. The
25 Board may provide additional analysis of the determination, provided that the Environmental

1 ~~Review Officer recommends such additional analysis and provided further that CEQA does~~
2 ~~not require additional public notice, an additional public hearing or further public review for~~
3 ~~such additional analysis.~~ The Board may refer the determination to the Planning Department for
4 revisions or reconsideration, or may overrule the determination and request preparation of specified
5 environmental documentation. If the Board finds that the project does not conform to the requirements
6 set forth in CEQA for the exemption determination, the Board shall make specific findings to overturn
7 the exemption determination and remand the CEQA determination to the Planning Department for
8 environmental review consistent with the Board's findings, including the preparation of a negative
9 declaration or an EIR, as appropriate.

10 (3) In the event the Board reverses the exemption determination of any City department,
11 agency or official other than the Planning Department, the exemption determination shall be remanded
12 to the Planning Department, and not the City department, agency or official that made the original
13 exemption determination, for environmental review in accordance with the Board's directions.

14
15 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

16
17 By: (Unsigned)
KATE HERRMANN STACY
18 Deputy City Attorney