

1 [Administrative Code - California Environmental Quality Act Procedures]

2

3 **Ordinance amending the San Francisco Administrative Code Chapter 31 to reflect**
4 **revisions in the California Environmental Quality Act (CEQA) and to update and clarify**
5 **certain procedures provided for in Chapter 31, including without limitation: codifying**
6 **procedures for appeals of exemptions and negative declarations; providing for the**
7 **Board to make the final CEQA decision on projects requiring Board legislative action,**
8 **negating the need to file formal CEQA appeals; revising noticing procedures for**
9 **environmental impact reports and negative declarations for plan area projects**
10 **exceeding five acres; expanding noticing requirements for certain exempt projects;**
11 **and clarifying existing noticing requirements for exempt projects.**

12 NOTE: Additions are *single-underline italics Times New Roman*;
13 deletions are ~~*strike-through italics Times New Roman*~~.
14 Board amendment additions are double-underlined;
15 Board amendment deletions are ~~strikethrough normal~~.

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

17 Section 1. The Planning Department has determined that the actions contemplated in
18 this ordinance comply with the California Environmental Quality Act (California Public
19 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. 121019 and is incorporated herein by reference.

21 Section 2. The San Francisco Administrative Code Chapter 31 is hereby amended by
22 amending Sections 31.04, 31.05, 31.06, 31.08, 31.09, 31.10, 31.11, 31.12, 31.13, 31.14, and
23 31.15, to read as follows:

24 **SEC. 31.04. RESPONSIBILITY.**

25

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

6 (b) The administrative actions required by CEQA with respect to the preparation of
7 environmental documents, giving of notice and other activities, as specified in this Chapter,
8 shall be performed by the San Francisco Planning Department as provided herein, acting for
9 the City. When CEQA requires posting of a notice by the county clerk of the county in which the
10 project will be located, the Planning Department shall transmit the required notice to the applicable
11 county clerk, and instruct the county clerk on the length of time the notice shall be posted and when the
12 posting shall commence.

13 (c) For appeals to the Board of Supervisors under Section 31.16, the Clerk of the Board of
14 Supervisors shall perform any administrative functions necessary for resolution of the appeal.

15 (d) For proposed projects that the Environmental Review Officer of the Planning
16 Department has determined may have an impact on historic or cultural resources, the Historic
17 Preservation Commission may review and comment on such environmental documents and
18 determinations in a manner consistent with CEQA and this Chapter 31.

19 (e) ~~(e)~~ Where adoption of administrative regulations by resolution of the Planning
20 Commission after public hearing is specified herein, there shall be notice by publication in a
21 newspaper of general circulation in the City at least ~~twenty (20)~~ days prior to the hearing and
22 by posting in the offices of the Planning Department, with copies of the proposed regulations
23 sent to the Board of Supervisors and any other affected boards, commissions and
24 departments of the City and to all organizations and individuals who have previously
25

1 requested such notice in writing. The decision of the Commission in adopting administrative
2 regulations shall be final.

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

6 (g) Unless CEQA requires a mailed notice by the United States Postal Service in hard copy
7 form, a City official may provide any mailed notice required by this Chapter using electronic mail
8 transmission whenever the City official has an email address for the individual or organization.

9 **SEC. 31.05. OFFICE OF ENVIRONMENTAL REVIEW.**

10 (a) An Office of Environmental Review is hereby created in the Planning
11 Department, which shall be responsible, acting through the Director of Planning, for the
12 administration of this Chapter 31 of those actions assigned to the Planning Department by Section
13 31.04.

14 (b) Said office shall be under the direction of an Environmental Review Officer, who
15 shall supervise the staff members of the office and have charge of the collection of fees by the
16 office. The Environmental Review Officer shall report to, and coordinate and consult with, the
17 Director of Planning.

18 (c) In addition to the powers and duties conferred below, the Environmental Review
19 Officer may, upon delegation by the Planning Commission as to specific projects, take
20 testimony at supplemental public hearings on draft environmental impact reports, in addition
21 to, and not in lieu of, the hearing held by the Planning Commission as set forth in section
22 31.14 of this Chapter, and shall report to, and make all such testimony available to, the
23 Planning Commission at a public hearing.

24 (d) The Environmental Review Officer shall also take such measures, within his or
25 her powers, as may be necessary to assure compliance with this Chapter 31 by persons

1 outside the Planning Department, and shall periodically review the effectiveness and
2 workability of the provisions of this Chapter 31 and recommend any refinements or changes
3 that he or she may deem appropriate for improvement of such provisions.

4 (e) All projects ~~that are not excluded or categorically exempt from CEQA~~ shall be
5 referred to the Environmental Review Officer except those exempt projects covered by a delegation
6 agreement with the Environmental Review Officer as provided in Section 31.08(d). All other officials,
7 boards, commissions, departments, bureaus and offices of the City shall cooperate with the
8 Environmental Review Officer in the exercise of his/her responsibilities, and shall supply
9 necessary information, consultations and comments.

10 (f) The Environmental Review Officer shall be responsible for assuring that the City
11 is carrying out its responsibilities set forth in CEQA. In addition, when the City is to carry out or
12 approve a project and some other public agency is the "lead agency," as defined by CEQA,
13 and where projects are to be carried out or approved by the State and Federal governments,
14 the Environmental Review Officer shall provide consultation and comments for the City to the
15 other government agencies when appropriate.

16 (g) To the extent feasible, the Environmental Review Officer shall combine the
17 evaluation of projects, preparation of environmental impact reports and conduct of hearings
18 with other planning processes; and shall coordinate environmental review with the Capital
19 Improvement Program, the San Francisco General Plan and the San Francisco Planning
20 Code.

21 (h) Adoption and/or revision of administrative regulations to implement CEQA shall
22 be by resolution of the Planning Commission after a public hearing. The Environmental
23 Review Officer may adopt necessary forms, checklists and processing guidelines to
24 implement CEQA and this Chapter 31 without a public hearing.

1 (i) Upon prior authorization by the Planning Commission, the Environmental
2 Review Officer may attend hearings and testify on matters related to CEQA before
3 governmental organizations and agencies other than governmental agencies of the City and
4 County of San Francisco and may advocate on behalf of the City on matters related to CEQA.

5 (j) The Environmental Review Officer may provide information to other
6 governmental or environmental organizations and members of the public.

7 (k) The Environmental Review Officer may delegate his or her responsibilities to an
8 employee of the Office of Environmental Review. All references herein to the Environmental
9 Review Officer shall be deemed to include the Environmental Review Officer's delegate.

10 **SEC. 31.06. COVERAGE OF STATE LAW.**

11 CEQA provides that certain kinds of projects may be subject to CEQA. Some of these
12 projects may be excluded or ~~category~~ exempt from CEQA. If not excluded or ~~category~~
13 exempt, CEQA provides a process whereby an initial study is completed, then a determination
14 is made as to whether a negative declaration, mitigated negative declaration, or an
15 environmental impact report ("EIR") should be prepared. In accordance with the requirements
16 of CEQA and as specified herein, the Planning Commission and/or the Environmental Review
17 Officer shall determine when CEQA applies to a project, when the project is excluded or
18 exempt, or when a negative declaration, mitigated negative declaration, or environmental impact
19 report is required.

20 **SEC. 31.08. ~~CATEGORICAL~~ EXEMPTIONS.**

21 (a) CEQA provides that certain ~~classes~~ kinds of projects are exempt from CEQA either
22 because the project is exempt by statute ("statutory exemption"); the project is in a class of projects
23 that generally do not have a significant effect on the environment and therefore are categorically
24 exempt from CEQA ("categorical exemption"); CEQA streamlining procedures allow reliance on a
25 prior environmental document prepared on a zoning or planning level decision, for example, as

1 provided in community plan areas and for specified urban infill projects ("community plan
2 exemption"); or the activity is covered under the general rule that CEQA applies only to projects that
3 have the potential for causing a significant effect on the environment, thus, where it can be seen with
4 certainty that there is no possibility that the activity in question may have a significant effect on the
5 environment, the activity is not subject to CEQA ("general rule exclusion"). Unless otherwise
6 specifically stated, reference in this Chapter 31 to "exemptions" or "exempt from CEQA" or an
7 "exemption determination" shall collectively refer to statutory exemptions, categorical exemptions,
8 community plan exemptions and general rule exclusions.

9 (b) For categorical exemptions:

10 (1) Each public agency must list the specific activities that fall within each
11 such class, subject to the qualification that these lists must be consistent with both the letter
12 and the intent of the classes set forth in CEQA. ~~Except as provided in this section 31.08, projects~~
13 ~~that are categorically exempt are not subject to the requirements of this Chapter 31.~~

14 (b)(2) The Environmental Review Officer shall maintain the required list of types
15 of projects which are categorically exempt, and such list shall be kept ~~posted~~ in the offices of
16 the Planning Department. Such list shall be kept up to date in accordance with any changes in
17 CEQA and any changes in the status of local projects. The initial list and any additions,
18 deletions and modifications thereto shall be adopted as administrative regulations by
19 resolution of the Planning Commission after public hearing, according to the procedure set
20 forth in Section 31.04~~(e)~~(e) of this Chapter.

21 (e)(3) CEQA provides for public agencies to request additions, deletions and
22 modifications to the classes of projects listed as categorically exempt in CEQA. The Planning
23 Commission shall make any such requests, after a public hearing thereon held according to
24 the procedure specified in Section 31.04~~(e)~~(e) of this Chapter for adoption of administrative
25 regulations.

1 ~~(d)~~(c) The Environmental Review Officer may adopt necessary forms, checklists and
2 processing guidelines to aid the Planning Department and other departments in determining
3 that a project may be ~~category~~ exempt in accordance with the letter and the intent
4 expressed in ~~the classes of categorical exemptions specified in~~ CEQA and with the administrative
5 regulations adopted by the Planning Commission.

6 ~~(e)~~(d) The Environmental Review Officer shall advise other departments of ~~the~~
7 ~~categorical~~ exemptions. The Environmental Review Officer may delegate the determination
8 whether a project is ~~category~~ exempt from CEQA to other departments, provided that other
9 departments shall consult with the Environmental Review Officer regarding the application of
10 ~~the categorical~~ exemptions, and provided further that the Environmental Review Officer shall
11 be responsible for all determinations so delegated to other departments. When the Planning
12 Department or other City department determines that a project is exempt from CEQA, the issuance of
13 the exemption determination shall be considered an exemption determination by the Planning
14 Department.

15 ~~(f)~~(e) When the Environmental Review Officer, or any other department to which the
16 Environmental Review Officer has delegated responsibility pursuant to Section 31.08~~(e)~~(d)
17 above, has determined that a project is ~~excluded or category~~ exempt from CEQA, the
18 Environmental Review Officer:

19 (1) May issue a Certificate of Exemption from Environmental Review by posting a
20 copy in the offices of the Planning Department and on the Planning Department website, and by
21 mailing copies to the applicant, the board(s), commission(s) or department(s) that will carry out or
22 approve the project, and to any individuals or organizations who previously have requested such notice
23 in writing.

24 (2) Shall provide notice to the public ~~shall be provided~~ for all such
25 determinations involving the following types of projects: ~~(1)~~(i) any historical resources, ~~as~~

1 defined ~~in CEQA, including without limitation, as~~ any buildings and sites listed individually or
2 located within districts (A) listed (i) in Planning Code Articles 10 or 11, (ii) in City-recognized
3 historical surveys, (iii) on an historic resource survey that has been adopted by the City, on the
4 California Register or determined eligible for listing on the California Register by the State Historical
5 Resources Commission, including, without limitation, any location, ~~or (iv)~~ on the National Register
6 of Historic Places, or (B) a resource that the Environmental Review Officer determines, based on
7 substantial evidence, to be a historical resource under Public Resources Code Section 5024.1; (2)(ii)
8 any Class 31 categorical exemption; (3)(iii) any demolition as defined in Planning Code Section
9 317 of an existing structure; or, (4)(iv) any Class 32 categorical exemption. ~~Written~~
10 determinations of categorical exemptions All exemption determinations for these types of projects
11 shall be in writing, posted in the offices of the Planning Department and on the Planning
12 Department's website, and shall be mailed to any individuals or organizations that have
13 previously requested such notice in writing.

14 (g)(f) When the Planning Department or other City department provides notice of a public
15 hearing on a proposed approval of a project that it has determined to be exempt from CEQA and the
16 proposed approval is the first approval of the project, which will be appealable to the Board of
17 Supervisors under Section 31.16 after the approval, the notice shall (1) inform the public of the
18 exemption determination and how the public may obtain a copy of the exemption determination, (2)
19 inform the public that it may appeal the CEQA exemption determination to the Board of Supervisors
20 within the timeframe specified in Section 31.16, and (3) inform the public that under CEQA, in a later
21 court challenge a litigant may be limited to raising only those issues previously raised at a hearing on
22 the project or at an appeal hearing on the CEQA determination or in written correspondence delivered
23 to the Planning Department or other City department at, or prior to, such hearing.

24 (g) A City board, commission, department or official that grants the first approval of a
25 project may thereafter arrange for the Planning Department to post on the Planning Department's

1 website a written decision or written notice of the first approval of the project that informs the public of
2 the first date of posting on the website and advises the public that the exemption determination may be
3 appealed to the Board of Supervisors as provided in Section 31.16.~~When the Environmental Review~~
4 ~~Officer, or any other department to which the Environmental Review Officer has delegated~~
5 ~~responsibility pursuant to Section 31.08(e) above, has determined that a project is excluded or~~
6 ~~categorically exempt from CEQA, the Environmental Review Officer may issue a Certificate of~~
7 ~~Exemption from Environmental Review by posting a copy thereof in the offices of the Planning~~
8 ~~Department, and by mailing copies thereof to the applicant, the board(s), commission(s) or~~
9 ~~department(s) that will carry out or approve the project, and to any individuals or organizations who~~
10 ~~have previously requested such notice in writing.~~

11 (h) After the City has decided to carry out or approve the project, the Environmental Review
12 Officer may file a notice of exemption with the county clerk in the county or counties in which the
13 project is to be located. The Planning Commission may take testimony on any categorical exemption at
14 the public hearing, if any, in connection with the Planning Commission's consideration of the project
15 that is the subject of the categorical exemption.

16 **SEC. 31.09. DETERMINATION OF NEED FOR EVALUATION.**

17 Upon receiving an environmental evaluation application for a project; upon referral of a
18 project by the board, commission or department that is to carry out or approve the project; or through
19 such other process for rendering an exemption determination as the Environmental Review Officer
20 shall authorize, the Environmental Review Officer shall determine whether such project is exempt from
21 environmental review. For all~~All~~ projects that are not ~~statutorily excluded or categorically~~ exempt
22 from CEQA ~~shall be referred to the Environmental Review Officer,~~ prior to the City's decision as to
23 whether to carry out or approve the project, the Environmental Review Officer shall conduct~~for an~~
24 initial study to establish whether a negative declaration or an environmental impact report is
25 required. In the event it is clear at the outset that an environmental impact report is required, the

1 Environmental Review Officer may make an immediate determination and dispense with the initial
2 study.

3 **SEC. 31.10. INITIAL EVALUATION OF PROJECTS.**

4 (a) ~~Upon receiving an environmental evaluation application for a project, or upon referral~~
5 ~~of a project by the board, commission or department that is to carry out or approve the project, the~~
6 ~~Environmental Review Officer shall determine whether such project is exempt from environmental~~
7 ~~review. If not exempt, the Environmental Review Officer shall complete an initial study to determine the~~
8 ~~level of environmental analysis required. In the event it is clear at the outset that an environmental~~
9 ~~impact report is required, the Environmental Review Officer may, with the consent of the applicant,~~
10 ~~make an immediate determination and dispense with the initial study.~~ Each environmental

11 evaluation application or referral shall include a project description using as its base the
12 environmental information form set forth as Appendix H of the CEQA Guidelines, which form
13 shall be supplemented to require additional data and information applicable to a project's
14 effects, including consistency with the environmental issues included in the Eight Priority
15 Policies set forth in Section 101.1 of the Planning Code and incorporated into the General
16 Plan; shadow impacts, including the analysis set forth in Planning Code Section 295; and
17 such other data and information specific to the urban environment of San Francisco or to the
18 specific project. Each environmental evaluation application or referral shall be certified as true
19 and correct by the applicant or referring board, commission or department. Each initial study
20 shall include an identification of the environmental effects of a project using as its base the
21 environmental checklist form set forth in Appendix G of the CEQA Guidelines and addressing
22 each of the questions from the checklist form that are relevant to a project's environmental
23 effects; provided that the checklist form shall be supplemented to address additional
24 environmental effects, including consistency with the environmental issues included in the
25 Eight Priority Policies set forth in Section 101.1 of the Planning Code and incorporated into

1 the General Plan, shadow impacts, ~~including the analysis set forth in Planning Code Section 295,~~
2 and such other environmental effects specific to the urban environment of San Francisco or to
3 the specific project.

4 (b) The initial study shall provide data and analysis regarding the potential for the
5 project to have a significant effect on the environment. The basic criteria for determination of
6 significant effect shall be consistent with the provisions set forth in CEQA.

7 (c) The applicant or the board, commission or department that is to carry out or
8 approve the project shall submit to the Environmental Review Officer such data and
9 information as may be necessary for the initial study. If such data and information are not
10 submitted, the Environmental Review Officer may suspend work on the initial evaluation.

11 (d) During preparation of the initial study, the Environmental Review Officer may
12 consult with any person having knowledge or interest concerning the project. In cases in
13 which the project is to be carried out or approved by more than one government agency and
14 the City is the lead agency, the Environmental Review Officer shall solicit input from all other
15 government agencies that are to carry out or approve the project.

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

19 (f) Based on the analysis and conclusions in the initial study, the Environmental
20 Review Officer shall:

21 (1) Prepare a negative declaration if there is no substantial evidence, in light of the
22 whole record before the Planning Department, that the project may have a significant effect on the
23 environment.

24 (2) Prepare a mitigated negative declaration if the initial study identified potentially
25 significant effects, but (i) revisions in the project plans or proposals made by, or agreed to by the

1 applicant before a proposed mitigated negative declaration and initial study are released for public
2 review would avoid the effects or mitigate the effects to a point where clearly no significant effects
3 would occur, and (ii) there is no substantial evidence, in light of the whole record before the Planning
4 Department, that the project as revised may have a significant effect on the environment.~~determine,~~
5 ~~based on the requirements of CEQA, whether there is a "fair argument" that the project could have a~~
6 ~~significant effect on the environment, and whether a negative declaration or environmental impact~~
7 ~~report shall be prepared.~~

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

12 **SEC. 31.11. NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE**
13 **DECLARATIONS.**

14 (a) When the Environmental Review Officer determines that a ~~any~~ negative declaration
15 or a mitigated negative declaration is the appropriate level of environmental review required, it shall
16 be prepared by or at the direction of the Environmental Review Officer. Unless otherwise
17 specifically stated, reference in this Chapter 31 to "negative declaration" shall collectively refer to a
18 negative declaration and a mitigated negative declaration. The negative declaration shall include
19 the information required by CEQA and in any event shall describe the project proposed, include
20 the location of the property, preferably shown on a map, and the name of the project
21 proponent, state the proposed finding that the project could not have a significant effect on the
22 environment, and have attached to it a copy of the initial study documenting reasons to
23 support that finding. The negative declaration shall also indicate mitigation measures, if any,
24 included in the project to avoid potentially significant effects.

1 (b) The Environmental Review Officer shall first prepare a negative declaration on a
2 preliminary basis, and shall post a copy of the proposed negative declaration in the offices of
3 the Planning Department and on the Planning Department website. ~~and mail notice thereof to the~~
4 ~~applicant and the board(s), commission(s) or department(s) that will carry out or approve the project.~~

5 (c) The Environmental Review Officer shall provide a notice of intent to adopt a
6 negative declaration ~~or mitigated negative declaration~~ ("notice of intent") to those persons required
7 by CEQA and in any event by:

8 (1) Mail to the applicant and the board(s), commission(s) or department(s) that will
9 carry out or approve the project.

10 (2) ~~by publication~~ Publication in a newspaper of general circulation in the City.

11 (3) ~~by posting~~ Posting in the offices of the Planning Department and on the
12 subject site.

13 (4) ~~by mail~~ Mail to the owners of all real property within the area that is the
14 subject of the negative declaration and within 300 feet of all exterior boundaries of such area,
15 and by mail to all organizations and individuals who have previously requested such notice in
16 writing, sufficiently prior to adoption of the negative declaration to allow the public and
17 agencies a review period of not less than ~~twenty (20)~~ days, or ~~thirty (30)~~ days if a 30-day
18 circulation period is required by CEQA. In the case of City-sponsored projects that involve rezonings,
19 Area Plans or General Plan amendments and are either citywide in scope or the total area of land that
20 is part of the project, excluding the area of public streets and alleys, is 5 acres or more, the
21 Environmental Review Officer shall not be required to mail the notice of intent to the owners within
22 300 feet of all exterior boundaries of the project area.

23 (d) The notice of intent shall specify the period during which comments are to be
24 received, the date, time and place of any public hearings on the project when known to the
25 Planning Department at the time of the notice, a brief description of the project and its location,

1 ~~and~~ the address where copies of the negative declaration and all documents referenced in the
2 negative declaration are available for review, and any other information as required by CEQA.

3 (e) Within ~~twenty (20)~~ days, or ~~thirty (30)~~ days if required by CEQA, following the
4 publication of ~~such the~~ notice of intent, any person may appeal the proposed negative
5 declaration to the Planning Commission, specifying the grounds for such appeal, ~~or. Any~~
6 ~~person may~~ submit comments on the proposed negative declaration.

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

14 (g) After such hearing the Planning Commission shall affirm the proposed negative
15 declaration if it finds that the project could not have a significant effect on the environment,
16 may refer the proposed negative declaration back to the Planning Department for specified
17 revisions, or shall overrule the proposed negative declaration and order preparation of an
18 environmental impact report if it finds based on substantial evidence that the project may have a
19 significant effect on the environment.

20 (h) If the proposed negative declaration is not appealed as provided herein, or if it is
21 affirmed on appeal, the negative declaration shall be considered final, subject to any
22 necessary modifications. Thereafter, the first City decision-making body to act on approval of
23 the project shall review and consider the information contained in the final negative
24 declaration, together with any comments received during the public review process, and, upon
25 making the findings as provided in CEQA, shall adopt the negative declaration, prior to

1 approving the project. All decision-making bodies shall review and consider the negative
2 declaration and make findings as required by CEQA prior to approving the project.

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

7 (j) After the City has decided to carry out or approve the project in accordance with
8 CEQA procedures, the Environmental Review Officer ~~may~~shall endeavor to file a notice of
9 determination with the county clerk in the county or counties in which the project is to be
10 located. If required by CEQA, the notice of determination shall also be filed with the California
11 Office of Planning and Research.

12 **SEC. 31.12. DETERMINATIONS THAT ENVIRONMENTAL IMPACT REPORTS ARE**
13 **REQUIRED.**

14 If it is determined that a project may have a significant effect on the environment that
15 cannot be avoided or mitigated to a less than significant level and, therefore, that an environmental
16 impact report is required, the Environmental Review Officer shall distribute a notice of
17 preparation in the manner and containing the information required by CEQA and provide such other
18 notice as required by CEQA. In addition, the Environmental Review Officer shall prepare a notice
19 advising the public of the notice of preparation and of any scheduled scoping meetings and publish the
20 notice of preparation in a newspaper of general circulation in the City, ~~shall~~ post the notice of
21 preparation in the offices of the Planning Department and on the Planning Department website,
22 and ~~shall~~ mail the notice of preparation to the applicant, the board(s), commission(s) or
23 department(s) that will carry out or approve the project and to all organizations and individuals
24 who have previously requested such notice in writing. The Environmental Review Officer shall
25 provide such other notice as required by CEQA.

1 **SEC. 31.13. DRAFT ENVIRONMENTAL IMPACT REPORTS.**

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

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

13 (c) During preparation of the draft EIR, the Environmental Review Officer may
14 consult with any person having knowledge or interest concerning the project. If he/she has not
15 already done so in accordance with Section 31.10 above, in cases in which the project is to be
16 carried out or approved by more than one public agency, the Environmental Review Officer
17 shall consult with all other public agencies that are to carry out or approve the project.

18 (d) When the draft EIR has been prepared, the Environmental Review Officer shall
19 file a notice of completion of such draft with the California Office of Planning and Research as
20 required by CEQA and make the draft EIR available through the State Clearinghouse if and as
21 required by the California Office of Planning and Research. ~~A copy of such notice, or a separate~~
22 ~~notice containing the same information, shall thereupon be posted in the offices of the Planning~~
23 ~~Department and on the subject site, and mailed to the applicant, the board(s), commission(s) or~~
24 ~~department(s) that will carry out or approve the project, and to any individual or organization that has~~
25 ~~requested such notice in writing. The notice of completion shall be sent by mail to the owners of all real~~

1 ~~property within the area that is the subject of the environmental impact report and within 300 feet of all~~
2 ~~exterior boundaries of such area. A copy of the draft EIR shall be provided to the applicant and to such~~
3 ~~board(s), commission(s) or department(s) and to any individual or organization that has so requested.~~

4 **SEC. 31.14. CONSULTATIONS AND COMMENTS.**

5 (a) The Environmental Review Officer shall provide public notice of the availability of the
6 draft EIR and schedule a public hearing on the draft EIR with the Planning Commission. The
7 Environmental Review Officer shall provide the notice of availability at the same time that the notice of
8 completion is filed as required by CEQA. The notice of availability shall be distributed at least 30 days
9 prior to the scheduled public hearing on the draft EIR. The notice of availability shall be distributed in
10 the manner required by CEQA and in any event.—Notice shall be:

11 (1) ~~sent~~ Sent to any public agencies with jurisdiction by law that CEQA requires
12 the lead agency to consult with and request comments from on the draft EIR, and, in the discretion of
13 the Environmental Review Officer, other persons with special expertise with respect to any
14 environmental impact involved. as follows: after filing a notice of completion as required by CEQA, the
15 Environmental Review Officer shall send a copy of the draft EIR to any public agencies as required by
16 CEQA, and may send copies to and consult with persons who have special expertise with respect to any
17 environmental impact involved.

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

22 (2) Posted in the offices of the Planning Department, on the Planning Department
23 website, and on the subject site.

24 (3) Published in a newspaper of general circulation in the City.

1 (4) Mailed to the applicant, the board(s), commission(s) or department(s) that will
2 carry out or approve the project, and to any individuals or organizations that previously have
3 requested such notice in writing.

4 (5) Mailed to the owners of all real property within the area that is the subject of the
5 environmental impact report and within 300 feet of all exterior boundaries of such area. In the case of
6 City-sponsored projects that involve rezonings, area plans or General Plan amendments and are either
7 citywide in scope or the total area of land that is part of the project, excluding the area of public streets
8 and alleys, is 5 acres or more, the Environmental Review Officer shall not be required to mail the
9 notice of availability to the owners within 300 feet of all exterior boundaries of the project area.

10 (b) The notice of availability shall contain the information required by CEQA and in any
11 event shall:

12 (1) State the starting and ending dates for the draft EIR review period during which
13 the Environmental Review Officer will receive comments and if comments are not returned within that
14 time it shall be assumed that the agency or person has no comment to make. The public review period
15 shall not be less than 30 days nor more than 60 days except under unusual circumstances. When a draft
16 EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall
17 not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State
18 Clearinghouse. The Planning Commission or the Environmental Review Officer may, upon the request
19 of an agency or person with special expertise from whom comments are sought, grant an extension of
20 time beyond the original period for comments, but such extension shall not interfere with the holding of
21 any hearing on the draft EIR for which notice has already been given.

22 (2) State the time, place and date of the scheduled Planning Commission hearing on
23 the draft EIR and all hearings at which the Environmental Review Officer will take testimony.

24 (c) The Planning Department shall make the draft EIR available to the public upon the
25 filing of the notice of completion with the California Office of Planning and Research. The Planning

1 Department shall post a copy of the draft EIR on the Planning Department website and provide a copy
2 of the draft EIR in electronic form on a diskette or by electronic mail transmission when an email
3 address is provided, unless a printed hard copy is specifically requested, to the applicant and to such
4 board(s), commission(s) or department(s) and to any individuals or organizations that previously have
5 requested a copy in writing.

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

15 ~~(d) — Notice to the general public shall be provided as follows:~~

16 ~~(1) — (d) _____ Public participation, both formal and informal, shall be encouraged at all~~
17 ~~stages of review, and written comments shall be accepted at any time up to the conclusion of~~
18 ~~the public comment period. The Environmental Review Officer may give public notice at any~~
19 ~~formal stage of the review process, beyond the notices required by this Chapter 31 and CEQA,~~
20 ~~in any manner it may deem appropriate, and may maintain a public log as the status of all projects~~
21 ~~under formal review. Members of the general public shall be encouraged to submit their comments in~~
22 ~~writing as early as possible.~~

23 ~~(2) — The draft EIR shall be available to the general public upon filing of the notice of~~
24 ~~completion.~~

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

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

17 **SEC. 31.15. FINAL ENVIRONMENTAL IMPACT REPORTS.**

18 (a) A final EIR shall be prepared by, or at the direction of, the Environmental Review
19 Officer, based upon the draft EIR, the consultations and comments received during the review
20 process, and additional information that may become available.

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

1 (c) A public record of proceedings shall be kept of each case in which an EIR is
2 prepared, including all comments received in writing in addition to a record of the public
3 hearing. The final EIR shall indicate the location of such record. The Environmental Review
4 Officer shall cause the hearing record to be recorded by a phonographic reporter. Any transcription
5 of a hearing record shall be at the expense of the person requesting such transcription.

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

11 (e) After the City has decided to carry out or approve the project in accordance with CEQA
12 procedures, the Environmental Review Officer shall endeavor to file a notice of determination with the
13 county clerk in the county or counties in which the project is to be located. If required by CEQA, the
14 notice of determination shall also be filed with the California Office of Planning and Research.

15 Section 3. The San Francisco Administrative Code Chapter 31 is hereby amended by
16 deleting Section 31.16 in its entirety and adding new Section 31.16 to read as follows:

17 ***SEC. 31.16. APPEAL OF FINAL ENVIRONMENTAL IMPACT REPORTS.***

18 ~~(a) Any person or entity that has submitted comments to the Planning Commission or the~~
19 ~~Environmental Review Officer on a draft EIR, either in writing during the public review period, or~~
20 ~~orally or in writing at a public hearing on the EIR, may appeal the Planning Commission's certification~~
21 ~~of a final EIR to the Board of Supervisors (the "Board").~~

22 ~~———— (1) A letter of appeal shall be submitted to the Clerk of the Board within twenty (20)~~
23 ~~calendar days after the Planning Commission's certification of the EIR, stating the specific grounds for~~
24 ~~appeal, and accompanied by a fee, as set forth in Section 31.22 herein, payable to the Clerk of the~~
25 ~~Board. The grounds for appeal shall be limited to issues related to the adequacy, accuracy and~~

1 *objectiveness of the final EIR, including but not limited to the sufficiency of the final EIR as an*
2 *informational document and the correctness of its conclusions, and the correctness of the findings*
3 *contained in the Planning Commission's certification of the EIR. The appellant shall submit a copy of*
4 *the letter of appeal to the Environmental Review Officer at the time appellant submits a letter of appeal*
5 *to the Clerk of the Board.*

6 *——— (2) ——— After receipt of the letter of appeal, the Environmental Review Officer shall*
7 *promptly transmit copies of the EIR to the Clerk of the Board and make the administrative record*
8 *available to the Board.*

9 *——— (3) ——— While the appeal is pending, and until the EIR is affirmed or re-certified as may*
10 *be required by the Board, the City shall not carry out or consider the approval of a project that is the*
11 *subject of the EIR on appeal.*

12 *(b) ——— The Clerk of the Board shall promptly schedule a hearing on the appeal before the full*
13 *Board, without regard to any rule or policy of the Board requiring a 30-day review period. If more*
14 *than one person submits a letter of appeal on a final EIR, the Board shall consolidate such appeals so*
15 *that they are heard simultaneously. The Board may consolidate or coordinate its hearing on the appeal*
16 *with other hearings on the project. Notice of the appeal shall be provided by mail to the appellants and*
17 *to all organizations and individuals who have previously requested such notice, not less than ten (10)*
18 *days prior to the date of the hearing.*

19 *(c) ——— The Board shall conduct its own independent review of the final EIR. The Board shall*
20 *consider anew all facts, evidence and/or issues related to the adequacy, accuracy and objectiveness of*
21 *the final EIR, including but not limited to the sufficiency of the final EIR as an informational document*
22 *and the correctness of its conclusions, and the Planning Commission's certification of the EIR. The*
23 *Board may consider new facts, evidence and/or issues that were not introduced before the Planning*
24 *Commission or the Environmental Review Officer.*

1 (d) — ~~The Board shall affirm the Planning Commission's certification of the final EIR only if~~
2 ~~the Board finds that the final EIR is adequate, accurate and objective, that its conclusions are correct,~~
3 ~~and that the findings contained in the Planning Commission's certification are correct. The Board may~~
4 ~~affirm or reverse the action of the Planning Commission only by a vote of a majority of all members of~~
5 ~~the Board. If the Board reverses the Planning Commission's certification of the final EIR, it shall make~~
6 ~~specific findings and remand the final EIR to the Planning Commission for further action consistent~~
7 ~~with the Board's findings. The Board shall act by motion in affirming or reversing the Planning~~
8 ~~Commission's certification of the final EIR.~~

9 (e) — ~~The Board shall act on an appeal within thirty (30) days of appeal of the Planning~~
10 ~~Commission's certification of the EIR, provided that, if the full membership of the Board is not present~~
11 ~~on the last day on which said appeal is set or continued for hearing within such 30 days, the Board may~~
12 ~~postpone said hearing and decision thereon until, but not later than, the full membership of the Board~~
13 ~~is present; provided further, that the latest date to which said hearing and decision may be so~~
14 ~~postponed shall be not more than ninety (90) days from the date of filing the appeal. The date of~~
15 ~~certification of the final EIR shall be the date upon which the Planning Commission originally certified~~
16 ~~the final EIR if: (i) no appeal is filed; or (ii) an appeal is filed and the Planning Commission's~~
17 ~~certification of the final EIR is affirmed by action of the Board.~~

18 (f) — ~~In the event the Board remands an EIR to the Planning Commission, the Planning~~
19 ~~Commission shall take such action as may be required by the specific findings made by the Board and~~
20 ~~consider re-certification of the EIR. In the event the EIR is re-certified by the Planning Commission,~~
21 ~~only the portions of the EIR which have been revised, or the new issues which have been addressed, by~~
22 ~~the Planning Commission may be appealed again to the Board pursuant to the procedures set forth~~
23 ~~herein.~~

24 (g) — ~~The Board may reject an appeal if it finds that the appeal fails to state proper grounds~~
25 ~~for appeal. The Board shall act by motion in rejecting an appeal.~~

1 **SEC. 31.16. APPEAL OF CERTAIN CEQA DECISIONS.**

2 **(a) Decisions Subject to Appeal.** *In accordance with the provisions set forth in this Section*
3 *31.16, the following CEQA decisions may be appealed to the Board of Supervisors (the “Board”)*
4 *where the Board is not otherwise the CEQA decision-making body for the project as provided in*
5 *Section 31.16(b): (1) certification of a final EIR by the Planning Commission; (2) adoption of a*
6 *negative declaration by the first decision-making body; and (3) determination by the Planning*
7 *Department or any other authorized City department that a project is exempt from CEQA.*

8 **(b) Board as CEQA Decision-Making Body.** *CEQA decisions are not appealable to the*
9 *Board if the Board is the CEQA decision-making body for the project. For purposes of this Chapter 31,*
10 *the Board is the CEQA decision-making body for the project if any of the following circumstances*
11 *apply: (1) at the time an appeal is filed the Board has affirmed the CEQA decision rendered by a non-*
12 *elected body of the City and approved the project, (2) one or more proposed approval actions for the*
13 *project is pending before the Board of Supervisors prior to the expiration of the time frames set forth in*
14 *Subsections 31.16 (d),(e), or (f), as applicable, for filing the appeal, or (3) the Planning Department*
15 *prepared the CEQA decision in support of a proposed ordinance. For any project for which the Board*
16 *is the CEQA decision-making body as defined by this Section 31.16, any person may raise objections to*
17 *the CEQA decision at a public hearing on the project held by the Board or a committee of the Board.*
18 *For any project for which the Board is the CEQA decision-making body as defined by this Section*
19 *31.16, prior to or as part of its consideration of the project, the Board shall affirm or reject the CEQA*
20 *decision for the project rendered by the Planning Department, the Planning Commission or any other*
21 *City department delegated CEQA decision authority by the Planning Department.*

22 **(c) Appeal Procedures.** *In addition to the applicable requirements of Section 31.16 (d)*
23 *pertaining to EIRs, Section 31.16(e) pertaining to negative declarations or Section 31.16 (f) pertaining*
24 *to exemption determinations, the following requirements shall apply to an appeal of any of the*
25 *decisions listed in Section 31.16(a).*

1 (1) The appellant shall submit a letter of appeal along with all written materials in
2 support of the appeal to the Clerk of the Board within the time frames set forth in Subsections 31.16
3 (d),(e), or (f), as applicable. The letter of appeal shall state the specific grounds for appeal, and shall
4 be accompanied by a fee, as set forth in Administrative Code Section 31.22, payable to the San
5 Francisco Planning Department. The appellant shall sign the letter of appeal, or may have an agent,
6 authorized in writing, file an appeal on his or her behalf. The appellant shall submit with the appeal a
7 copy of the CEQA EIR certification or the negative declaration approval by the Planning Commission,
8 or a copy of the exemption determination by the Planning Department that is being appealed and a
9 copy of the approval action taken for the project by a City board, commission, department or official.
10 The appellant shall submit a copy of the letter of appeal and all written materials in support of the
11 appeal to the Environmental Review Officer at the time appellant submits the letter of appeal to the
12 Clerk of the Board. The Clerk of the Board may reject an appeal if appellant fails to comply with this
13 subsection 31.16(c)(1).

14 (2) After receipt of the letter of appeal, the Environmental Review Officer shall
15 promptly transmit copies of the environmental review document no later than 11 days prior to the
16 scheduled hearing to the Clerk of the Board and make the administrative record available to the Board.

17 (3) For projects that require multiple City approvals, while the appeal is pending,
18 and until the CEQA determination is affirmed by the Board, other City boards, commissions,
19 departments and officials may consider the approval of the project that is the subject of the CEQA
20 determination on appeal but shall not undertake activities to implement the project that physically
21 change the environment except activities that are essential to abate hazards to the public health and
22 safety, including abatement of hazards on a structure or site determined by the appropriate City
23 official, including but not limited to the Director of Building Inspection, the Director of Public Works,
24 the Director of Public Health, the Fire Marshal or the Port Chief Engineer, to be an emergency
25 presenting an imminent hazard to the public and requiring immediate action.

1 (4) The Clerk of the Board shall schedule a hearing on the appeal before the full
2 Board or as otherwise provided by the Board in its Rules of Order. The Clerk shall schedule the
3 hearing no less than 30 and no more than 45 days following expiration of the time frames set forth in
4 Subsections 31.16 (d),(e), or (f), as applicable, for filing an appeal. The Clerk shall provide notice of
5 the appeal by mail to the appellant or appellants and to all organizations and individuals who have
6 previously requested such notice in writing, no less than 14 days prior to the date the appeal is
7 scheduled to be heard by the Board. The Planning Department shall provide to the Clerk of the Board
8 the list of individuals and organizations that have commented on the decision or determination in a
9 timely manner, or requested notice of an appeal, no less than 20 days prior to the scheduled hearing.

10 (5) Members of the public, real parties in interest or City agencies sponsoring the
11 proposed project may submit written materials to the Clerk of the Board no later than noon, 11 days
12 prior to the scheduled hearing. The Planning Department shall submit to the Clerk of the Board a
13 written response to the appeal no later than noon, eight days prior to the scheduled hearing. Any
14 written document submitted after these deadlines shall not be distributed to the Supervisors as part of
15 their hearing materials.

16 (6) The Board shall conduct its own independent review of the CEQA decision as to
17 its adequacy in complying with the requirements of CEQA.

18 (7) The Board shall act on an appeal within 30 days of the date scheduled for the
19 hearing, provided that if the full membership of the Board is not present on the last day on which the
20 appeal is set for a decision within said 30 days, the Board may postpone a decision thereon until, but
21 not later than, the full membership of the Board is present; and provided further, if the Board of
22 Supervisors does not conduct at least three regular Board meetings during such 30 day period, the
23 Board of Supervisors shall decide such appeal within 40 days of the time set for the hearing thereon;
24 and provided further that the latest date to which said decision may be so postponed shall be not more
25

1 than 90 days from the expiration of the time frames set forth in Subsections 31.16 (d),(e), or (f), as
2 applicable, for filing an appeal.

3 (8) The Board may affirm or reverse the CEQA decision of the Planning
4 Commission, Planning Department or other authorized City agency by a vote of a majority of all
5 members of the Board. A tie vote shall be deemed to be disapproval of the CEQA decision. The Board
6 shall act by motion. The Board shall adopt findings in support of its decision, which may include
7 adoption or incorporation of findings made by the Planning Commission, Environmental Review
8 Officer or other City department authorized to act on the CEQA decision below. If the Board reverses
9 the CEQA decision, the Board shall adopt specific findings setting forth the reasons for its decision.

10 (9) If the Board affirms the CEQA decision, the date of the final EIR, the final
11 negative declaration, or final exemption determination shall be the date upon which the Planning
12 Commission, Planning Department or other authorized City department, as applicable, first approved
13 the EIR or negative declaration or issued the exemption determination and any approval actions for the
14 project made prior to the appeal decision shall be deemed valid. The date of the final approval of the
15 project shall occur no earlier than either (1) the expiration date of the appeal period, if no appeal is
16 filed, or (2) the date the Board affirms the CEQA determination, if the CEQA determination is
17 appealed.

18 (10) If the Board reverses the CEQA decision, the prior CEQA decision and approval
19 actions for the project, including, but not limited to, any approvals of the project granted during the
20 pendency of the appeal, shall be deemed void.

21 (d) **Appeal of Environmental Impact Reports.** In addition to those requirements set forth in
22 Section 31.16(c) above, the following requirements shall apply only to appeals of EIRs.

23 (1) In order to appeal the Planning Commission's certification of an EIR to the
24 Board, the appellant shall have submitted comments to the Planning Commission or the Environmental
25

1 Review Officer on a draft EIR, either in writing during the public review period, or orally or in writing
2 at a public hearing on the draft EIR.

3 (2) The appellant of a final EIR shall submit a letter of appeal and written materials
4 in support of the appeal to the Clerk of the Board within 20 days after the Planning Commission's
5 certification of the EIR and the first approval of the project.

6 (3) The grounds for appeal of an EIR shall be limited to whether the EIR complies
7 with CEQA, is adequate, accurate and objective and reflects the independent judgment and analysis of
8 the City.

9 (4) The Board shall affirm the Planning Commission's certification of the final EIR
10 if the Board finds that the final EIR complies with CEQA, is adequate, accurate and objective and
11 reflects the independent judgment and analysis of the City.

12 (5) The Board shall reverse the Planning Commission's certification of the EIR if the
13 Board finds that the EIR does not comply with CEQA or is not adequate, accurate and objective or
14 does not reflect the independent judgment and analysis of the City. If the Board reverses the Planning
15 Commission's certification of the final EIR, it shall remand the final EIR to the Planning Commission
16 for further action consistent with the Board's findings. Any further appeals of the EIR shall be limited
17 only to the portions of the EIR that the Planning Commission has revised and any appellant shall have
18 commented on the revised EIR at or before a public hearing held on the revised EIR or the project, if
19 any. The Board's subsequent review, if any, also shall be limited to the portions of the EIR that the
20 Planning Commission has revised. Any additional appeals to the Board shall comply with the
21 procedures set forth in this Section 31.16.

22 (e) **Appeal of Negative Declarations.** In addition to those requirements set forth in Section
23 31.16(c) above, the following requirements shall apply only to appeals of negative declarations.

24 (1) In order to appeal the adoption of a negative declaration to the Board, the
25 appellant or another party must have filed an appeal of the preliminary negative declaration with the

1 Planning Commission during the public comment period provided by this Chapter 31 for filing
2 comments on the preliminary negative declaration.

3 (2) The appellant of a negative declaration shall submit a letter of appeal to the
4 Clerk of the Board within 20 days after the adoption of the negative declaration.

5 (3) The grounds for appeal of a negative declaration shall be limited to whether the
6 negative declaration conforms to the requirements of CEQA and there is no substantial evidence, in
7 light of the whole record before the Board, that the project may have a significant effect on the
8 environment, including in the case of a mitigated negative declaration, the adequacy and feasibility of
9 the mitigation measures.

10 (4) The Board shall affirm the Planning Commission approval of the negative
11 declaration if it finds that the negative declaration conforms to the requirements of CEQA and the
12 project could not have a significant effect on the environment.

13 (5) The Board shall reverse the Planning Commission approval of the negative
14 declaration if it finds that the negative declaration does not conform to the requirements of CEQA or
15 that the project may have a significant effect on the environment that has not been avoided or mitigated
16 to a less than significant level by mitigation measures or project modifications agreed to by the project
17 sponsor or incorporated into the project. If the Board reverses the decision of the Planning
18 Commission, it shall remand the negative declaration to the Planning Department for further action
19 consistent with the Board's findings.

20 (A) In the event the Board remands the negative declaration to the Planning
21 Department for revision, the Environmental Review Officer shall finalize the revised negative
22 declaration and send notice to the public, as set forth in Section 31.11, of the availability of the revised
23 negative declaration. No appeal to the Planning Commission of the revised negative declaration shall
24 be required. In the event an organization or individual wishes to appeal the revised negative
25 declaration, such appeal shall be made directly to the Board of Supervisors within 20 days of

1 publication of the revised negative declaration and shall comply with the procedures set forth in this
2 Section 31.16. The Board's subsequent review, if any, shall be limited to the portions of the negative
3 declaration that the Planning Department has revised.

4 (B) In the event the Board determines that a project may have a significant
5 effect on the environment that cannot be avoided or mitigated to a less than significant level and,
6 therefore, an EIR is required, the Planning Department shall prepare an EIR in accordance with
7 CEQA and this Chapter 31. Any subsequent appeal to the Board shall comply with the procedures set
8 forth in this Section 31.16.

9 (f) **Appeal of Exemption Determinations.** In addition to those requirements set forth in
10 Section 31.16(c) above, the following requirements shall apply to appeals of exemption determinations.

11 (1) Any person or entity may appeal the exemption determination by the Planning
12 Department or other authorized City department to the Board.

13 (2) The appellant of an exemption determination shall submit a letter of appeal and
14 written materials in support of the appeal to the Clerk of the Board within the following time frames as
15 applicable:

16 (A) For a private project seeking a permit, license or other entitlement for
17 use for which the City otherwise provides an appeal process for the entitlement (“appealable
18 entitlement”), the appeal of an exemption determination shall be filed within 20 days of the date the
19 City grants the first permit, license or other entitlement for use that is an appealable entitlement.

20 (B) For all projects not covered by subsection (A), if the Planning
21 Department posts on the Planning Department's website as provided in Section 31.08(g) a written
22 decision or written notice of the first approval of the project that informs the public of the first date of
23 posting of the notice on the website and informs the public that the exemption determination may be
24 appealed to the Board of Supervisors as provided in this Section 31.16, the appeal shall be filed within
25 20 days of the first date of the notice.

1 (C) For all projects not covered by subsection (A), if no notice is posted of
2 the first approval of the project as provided in subsection (B), the appeal shall be filed within 30 days
3 of the first approval of the project.

4 (3) The grounds for appeal of an exemption determination shall be limited to whether the
5 project conforms to the requirement of CEQA for an exemption.

6 (4) The Board shall affirm the exemption determination if it finds, as applicable, that
7 the project conforms to the requirements set forth in CEQA for an exemption.

8 (5) The Board shall reverse the exemption determination if it finds that the project
9 does not conform to the requirements set forth in CEQA for an exemption. If the Board finds that the
10 project does not conform to the requirements set forth in CEQA for an exemption, the Board shall
11 remand the exemption determination to the Planning Department for further action consistent with the
12 Board's findings. In the event the Board reverses the exemption determination of any City department
13 other than the Planning Department, the exemption determination shall be remanded to the Planning
14 Department, and not the City department making the original exemption determination, for
15 consideration of the exemption determination in accordance with the Board's directions.

16 Section 4. Effective Date. This ordinance shall become effective 30 days from the
17 date of passage.

18 Section 5. This section is uncodified. In enacting this Ordinance, the Board intends to
19 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
20 punctuation, charts, diagrams, or any other constituent part of the San Francisco
21 Administrative Code that are explicitly shown in this legislation as additions, deletions, Board
22 amendment additions, and Board amendment deletions in accordance with the "Note" that
23 appears under the official title of the legislation.

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

By: _____
ELAINE C. WARREN
Deputy City Attorney