

File No. 130464

Committee Item No. 7

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date May 20, 2013

Board of Supervisors Meeting Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

OTHER (Use back side if additional space is needed)

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Completed by: Alisa Miller Date May 17, 2013

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Administrative Code - California Environmental Quality Act Procedures, Appeal of Exempt  
2 Project Modification]

3  
4 **Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the**  
5 **Planning Commission of a Planning Department determination that an exempt project**  
6 **modification does not require a new decision under the California Environmental**  
7 **Quality Act; and making environmental findings.**

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

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

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

17 Section 2. The Administrative Code is hereby amended by adding new Section  
18 31.08(k), to read as follows:

19 **SEC. 31.08. ~~CATEGORICAL~~ EXEMPTIONS.**

20 \* \* \* \*

21 (k) **Modification of Exempt Project.** Where a modification occurs to a project that the  
22 Planning Department has determined to be exempt, prior to any subsequent approval actions, the  
23 Environmental Review Officer shall determine whether the modification requires a new CEQA  
24 decision.

1           (1) For purposes of exempt projects, a modification requiring reevaluation under  
2 Section 31.19(b) shall mean that the Planning Department is presented with a change in the scope of a  
3 project as described in the original application upon which Planning based the exemption  
4 determination, or the Planning Department is presented with new information regarding the  
5 environmental impacts of the project. If the Environmental Review Officer determines that the  
6 modification does not require reevaluation, such determination may be appealed to the Planning  
7 Commission as provided for in Section 31.08(k)(2). If the Environmental Review Officer determines  
8 that the project requires reevaluation as provided for in Section 31.19(b), the new CEQA decision  
9 rendered by the Planning Department or Planning Commission, may be appealed to the Board of  
10 Supervisors as provided for in Section 31.16.

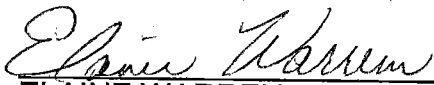
11           (2) When the Environmental Review Officer determines that the modification does  
12 not require a new CEQA decision, the Environmental Review Officer shall post a notice of the  
13 determination in the offices of the Planning Department and on the Planning Department website, and  
14 mail such notice to the applicant, board(s), commission(s) or department(s) that will carry out or  
15 approve the project, and to any individuals or organizations that have previously requested such notice  
16 in writing. Any person may appeal such determination to the Planning Commission within 30 days  
17 from the posting of such notice on the Planning Department website. The Planning Commission shall  
18 schedule a hearing on the appeal within 30 days of the filing of the appeal and take action on the  
19 appeal within 60 days of the posting of the notice on the Planning Department website. The Planning  
20 Commission shall uphold the appeal if it finds that the Planning Department determination is  
21 adequately supported by the record before the Planning Department and the Planning Commission. If  
22 the Planning Commission rejects the Planning Department's determination, the Planning Department  
23 shall prepare a new CEQA decision for the modified project as provided for in Section 31.19(b). The  
24 City shall not take any action to approve the project until the appeal period has expired with no appeal  
25

1 filed, or, if an appeal is filed, until the Planning Commission upholds the Planning Department's  
2 determination.

3 Section 3. Effective Date. This ordinance shall become effective 30 days from the  
4 date of passage.

5 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to  
6 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
7 punctuation, charts, diagrams, or any other constituent part of the Administrative Code that  
8 are explicitly shown in this legislation as additions, deletions, Board amendment additions,  
9 and Board amendment deletions in accordance with the "Note" that appears under the official  
10 title of the legislation.

11  
12 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

13 By:   
14 ELAINE WARREN  
15 Deputy City Attorney

16 n:\leganalas2013\1300351\00847224.doc

## LEGISLATIVE DIGEST

[Administrative Code - California Environmental Quality Act Procedures, Appeal of Exempt Project Modification]

**Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.**

### Existing Law

The City of San Francisco, in accordance with the requirements of the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* ("CEQA"), and CEQA Guidelines, Title 14, California Code of Regulations, Section 15000 *et seq.* has adopted local procedures for administering its responsibilities under CEQA. These procedures are codified in San Francisco Administrative Code Chapter 31. These procedures tailor the general provisions of the CEQA Guidelines to the specific operations of the City and incorporate by reference the provisions of CEQA and the CEQA Guidelines.

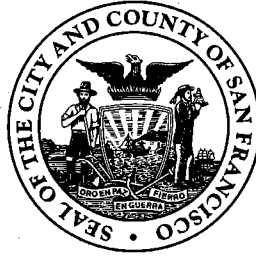
### Amendments to Current Law

This ordinance amends one section of current Chapter 31. The amendment provides for a process of appealing a determination by the Planning Department to the Planning Commission when the Planning Department determines that the nature of a modification to a project it has determined to be exempt from CEQA, is insufficient to trigger the need for a new CEQA decision before a subsequent project approval action is taken.

### Background Information

The ordinance is proposed to revise one aspect of the City's existing CEQA implementation procedures. A companion ordinance is also proposed that would further revise the City's existing CEQA implementation procedures.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 16, 2013

Planning Commission and  
Historic Preservation Commission  
Attn: Jonas Ionin  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On May 14, 2013, Supervisor Kim introduced the following proposed legislation:

**File No. 130464**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

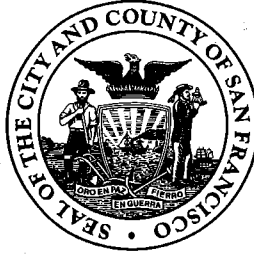
Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Sarah Jones, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Monica Pereira, Environmental Planning
- Joy Navarrete, Environmental Planning

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TDD/TTY No. 554-5227

May 16, 2013

**File No. 130464**

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On May 14, 2013, Supervisor Kim introduced the following proposed legislation:

**File No. 130464**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

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San Francisco 94102-4689  
Tel. No. 554-5184  
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TDD/TTY No. 554-5227

## MEMORANDUM

TO: Ed Reiskin, Director, Municipal Transportation Agency  
Tom Hui, Director, Department of Building Inspection  
Karen Hong Yee, County Clerk  
Mohammed Nuru, Director, Department of Public Works  
Barbara Garcia, Director, Department of Public Health  
Chief Joanne Hayes-White, Fire Department  
Fire Marshal Thomas Harvey, Fire Department  
Monique Moyer, Executive Director, Port  
Edward Byrne, Chief Engineer, Port  
Phil Ginsburg, General Manager, Recreation and Park Department

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: May 16, 2013

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Kim on May 14, 2013:

**File No. 130464**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

This matter is being forwarded to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Elaine Forbes, Port  
Kate Breen, Municipal Transportation Agency  
Janet Martinsen, Municipal Transportation Agency  
William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection  
Frank Lee, Department of Public Works  
Greg Wagner, Department of Public Health  
Kelly Alves, Fire Department  
Sarah Ballard, Recreation and Park Department



# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Supervisor Kim, Campos, Avalos, Mar

**Subject:**

Administrative Code - California Quality Act Procedures, Appeal of Exempt Project Modifications

**The text is listed below or attached:**

Ordinance amending Administrative Code Chapter 31 to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

130464