

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

3 **Ordinance amending Administrative Code, Chapter 31, to provide for appeals under the**
4 **California Environmental Quality Act to the Board of Supervisors of environmental**
5 **impact reports, negative declarations, exemption determinations, and determinations**
6 **on modified projects; to clarify and update existing Chapter 31 procedures, including**
7 **without limitation: to provide for the Planning Department or Planning Commission to**
8 **approve all exemption determinations; to require the Planning Department to establish**
9 **an electronic notification system; to expand noticing of exempt projects; to require**
10 **new noticing when filing notices of exemption and notices of determination; to revise**
11 **noticing of negative declarations and environmental impact reports for plans of 20**
12 **acres or more; to provide an expanded role for the Historic Preservation Commission;**
13 **and making environmental findings.**

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

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

20 Section 1. The Planning Department has determined that the actions contemplated in
21 this ordinance comply with the California Environmental Quality Act (California Public
22 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
23 Board of Supervisors in File No. 130248 and is incorporated herein by reference.
24
25

1 Section 2. The San Francisco Administrative Code is hereby amended by amending
2 Sections 31.02, 31.04, 31.05, 31.06, 31.08, 31.09, 31.10, 31.11, 31.12, 31.13, 31.14, 31.15
3 and 31.19 to read as follows:

4 **SEC. 31.02. POLICIES AND OBJECTIVES.**

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

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

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

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

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

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

17 (f) When an environmental impact report is required by CEQA, consider a reasonable
18 range of substantially less damaging alternatives that feasibly attain most of a project's objectives.

19 ~~(f)~~(g) Prevent significant avoidable damage to the environment by requiring changes
20 in projects through the use of alternatives or mitigation measures when the government
21 agency finds the changes to be feasible.

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

24 (i) Resolve appeals of decisions of nonelected decision-making bodies in a fair and timely
25 manner.

1 **SEC. 31.04. RESPONSIBILITY.**

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

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

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

17 (d) The Historic Preservation Commission shall have the authority to review and comment
18 on all environmental documents and determinations for projects that may have an impact on historic or
19 cultural resources.

20 (e)(e) Where adoption of administrative regulations by resolution of the Planning
21 Commission after public hearing is specified herein, the Planning Department shall provide the
22 Historic Preservation Commission with an opportunity to review and comment on the proposed
23 administrative regulations concerning historic or cultural resources issues. The Planning Department,
24 with the agreement of the Historic Preservation Commission, shall schedule public hearings at the
25 Historic Preservation Commission and the Planning Commission, which hearings ~~there~~ shall be

1 noticed at least 20 days prior to each scheduled hearing by publication in a newspaper of general
2 circulation in the City ~~at least twenty (20) days prior to the hearing~~ and by posting in the offices of
3 the Planning Department and on the Planning Department website, with copies of the proposed
4 regulations sent to the Board of Supervisors and any other affected boards, commissions and
5 departments of the City and to all organizations and individuals who have previously
6 requested such notice in writing. The Planning Department shall provide any comments of the
7 Historic Preservation Commission to the Planning Commission in writing in advance of the Planning
8 Commission's hearing on the proposed administrative regulations. The Planning Commission may
9 adopt, modify or disapprove the administrative regulations, taking into consideration the comments of
10 the Historic Preservation Commission. The decision of the Planning Commission in adopting
11 administrative regulations shall be final.

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

15 (g) Notwithstanding Administrative Code Section 8.12.5, all notices required by this
16 Chapter shall be provided by mail in hard copy form unless an individual or organization has
17 requested notice in electronic form. Electronic notification shall not be used when CEQA requires
18 mailed notice by the United States Postal Service in hard copy form. All notices required by this
19 Chapter 31 to be posted in the Planning Department shall also be posted on the Planning Department's
20 website.

21 (h) Electronic Notifications.

22 (1) The Environmental Review Officer shall implement an electronic notification
23 system for the notification requirements in this Chapter 31. The Environmental Review Officer shall
24 offer interested persons and organizations the opportunity to subscribe to an automated electronic mail
25 notification system. The system shall distribute all notifications required by this Chapter to subscribers.

1 Subscribers shall have the option to receive electronic mail regarding all CEQA notifications or all
2 CEQA notifications for: (A) a specific project; (B) a specific neighborhood; (C) designated historic
3 districts; (D) parks; (E) exemption determinations; (F) negative declarations; and (G) environmental
4 impact reports.

5 (2) The electronic notification system shall not be used in lieu of notifications by
6 mail in hard copy form as required by this Chapter 31 unless: (A) a subscriber affirmatively opts-out of
7 notice in such form; and (B) no other provision of law requires notice in such form.

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

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

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

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

23 (d) The Environmental Review Officer shall also take such measures, within his or
24 her powers, as may be necessary to assure compliance with this Chapter 31 by persons, and
25 officials, boards, commissions, departments or agencies outside the Planning Department, and

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

4 (e) All projects that are not ~~excluded or categorically~~ exempt from CEQA as defined in
5 Section 31.08(a) of this Chapter shall be referred to the Environmental Review Officer for
6 environmental review. All other officials, boards, commissions, departments, bureaus and
7 offices of the City shall cooperate with the Environmental Review Officer in the exercise of
8 his/her responsibilities, and shall supply necessary information, consultations and comments.

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

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

20 (h) Adoption and/or revision of administrative regulations to implement CEQA shall
21 be by resolution of the Planning Commission after ~~the~~ the public hearings held according to
22 Section 31.04(e) of this Chapter 31. The Environmental Review Officer may adopt necessary
23 forms, checklists and processing guidelines to implement CEQA and this Chapter 31 without a
24 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 (l) The Environmental Review Officer shall process applications for environmental review
11 in accordance with the requirements for equal treatment of permit applicants, unless there is a written
12 finding of a public policy basis for not doing so, as set forth in Campaign and Governmental Conduct
13 Code Section 3.400 and the written guidelines adopted by the Planning Department as required by
14 Section 3.400. For purposes of Section 3.400, this Section of Chapter 31, and any corresponding
15 written guidelines of the Planning Department, the Board finds that expediting environmental review
16 out of order, on a priority basis for the purpose of expediting permit processing shall qualify as a
17 public policy basis for projects consisting of publicly funded affordable housing projects that provide
18 new affordable housing in 100 percent of the on-site dwelling units (where such units are rented or sold
19 at the economic levels defined in Planning Code Section 415). The Planning Department shall
20 evaluate its written guidelines, and, if necessary, revise them to provide for a process that informs
21 applicants of these projects within 60 days of the submittal of a preliminary project assessment request
22 as to whether the project is exempt from CEQA. In the case where the Environmental Review Officer is
23 unable to reasonably complete this determination within 60 days of the request due to reliance on
24 external technical analyses either being conducted or that will need to be conducted, the project
25

1 sponsor shall be notified and given a precise timeline for receiving the determination, and in no case
2 longer than 120 days from the request.

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

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

13 **SEC. 31.08. ~~CATEGORICAL~~ EXEMPTIONS.**

14 (a) CEQA provides that certain classes of projects are exempt from CEQA because: (1)
15 the project is exempt by statute ("statutory exemption"); (2) the project falls within certain classes of
16 projects that generally do not have a significant effect on the environment and therefore are
17 categorically exempt from CEQA in accordance with the letter and the intent expressed in the
18 classes of categorical exemptions specified in CEQA ("categorical exemption"); (3) the activity is
19 covered under the general rule that CEQA applies only to projects with the potential for causing a
20 significant effect on the environment, thus, where it can be seen with certainty that there is no
21 possibility that the activity in question may have a significant effect on the environment, the activity is
22 not subject to CEQA ("general rule exclusion"); or (4) in certain cases, CEQA streamlining
23 procedures may allow reliance on a prior environmental document prepared on a zoning or planning
24 level decision, except as might be necessary to examine whether there are project-specific significant
25 effects which are peculiar to the project or its site ("community plan exemption"). Unless otherwise

1 specifically stated, reference in this Chapter 31 to “exemptions” or “exempt from CEQA” or an
2 “exemption determination” shall collectively refer to statutory exemptions, categorical exemptions,
3 general rule exclusions, and community plan exemptions.

4 (b) For categorical exemptions:

5 (1) CEQA requires that public agencies create and maintain a ~~Each public agency~~
6 ~~must list the~~ of specific activities that fall within each categorical exemption ~~such~~ class, ~~subject to~~
7 ~~the qualification that these lists must be~~ consistent with ~~both~~ the letter and the intent of the
8 classes set forth in CEQA. ~~Except as provided in this section 31.08, projects that are categorically~~
9 ~~exempt are not subject to the requirements of this Chapter 31.~~ (b) The Environmental Review
10 Officer shall maintain the required list ~~of types of projects which are categorically exempt, and such~~
11 ~~list and shall be kept posted~~ post it in the offices of the Planning Department and on the Planning
12 Department website and shall provide it to all City departments. ~~Such~~ The list shall be kept up to
13 date ~~in accordance with any~~ to implement changes in CEQA and ~~any~~ changes in the status of
14 local projects. The initial list and any additions, deletions and modifications ~~thereto~~ shall be
15 adopted as administrative regulations by resolution of the Planning Commission after public
16 ~~hearings, hearings thereon held,~~ according to the procedure set forth in Section 31.04~~(e)~~(e) of this
17 Chapter.

18 (e) ~~—~~ (2) CEQA ~~provides for~~ allows public agencies to request that the Secretary of
19 the Resources Agency make additions, deletions and modifications to the classes of projects
20 listed as categorically exempt in CEQA. The Planning Commission or the Historic Preservation
21 Commission shall make any such requests, after ~~at~~ the public hearing~~s~~ thereon held according to
22 the procedure specified in Section 31.04~~(e)~~(e) of this Chapter 31 for adoption of administrative
23 regulations.

24 (d)(c) The Environmental Review Officer may create ~~adopt necessary~~ forms, checklists
25 and processing guidelines to aid the Planning Department and other departments in

1 determining ~~that whether~~ a project may be *categoryically* exempt from CEQA in accordance with
2 ~~the letter and the intent expressed in the classes of categorical exemptions specified in~~ CEQA and with
3 the administrative regulations adopted by the Planning Commission.

4 ~~(e)(d)~~ The Environmental Review Officer shall be responsible for determining whether a
5 project is exempt from CEQA. The Environmental Review Officer shall advise other departments of
6 the ~~categorical exemptions. The Environmental Review Officer~~ requirements of CEQA for determining
7 whether a project is exempt from environmental review and may delegate the ~~determination authority~~
8 to determine whether a project is *categoryically* exempt from CEQA to other departments,
9 provided that other departments shall consult with the Environmental Review Officer regarding
10 the application of the categorical exemptions. Further, at the time of each exemption
11 determination, such other departments shall inform the Planning Department in writing as to the
12 nature of the project and the exemption granted, and provided further that the Environmental
13 Review Officer shall be responsible for all determinations so delegated to other departments.
14 When the Planning Department or other City department determines that a project is exempt from
15 CEQA, the issuance of the exemption determination shall be considered an exemption determination by
16 the Planning Department. The Environmental Review Officer shall provide for noticing and posting of
17 exemption determinations issued by other City Departments in the same manner as it provides for
18 exemption determinations issued by the Planning Department.

19 ~~(f)(e)~~ **Public Notice of Certain Exemptions.** When the Environmental Review Officer, ~~or~~
20 ~~any other department to which the Environmental Review Officer has delegated responsibility pursuant~~
21 ~~to Section 31.08(e) above~~, has determined that a project is ~~excluded or categoryically~~ exempt from
22 CEQA, the Environmental Review Officer shall post its determinations in the offices of the Planning
23 Department and on the Planning Department website, and mail notice of its determinations to any
24 individuals or organizations that have previously requested such notice ~~to the public shall be provided~~

1 for all ~~such~~ exemption determinations involving ~~the following types of projects: (I) any historical~~
2 ~~resources as defined in CEQA, including without limitation,~~

3 (1) any buildings and sites listed individually or located within districts listed
4 ~~(i)(A) in Planning Code Articles 10 or 11, (ii)(B) in City-recognized~~ any historical resource
5 surveys that have been adopted by or officially recognized by the City, or (iii)(C) ~~on~~ in the California
6 Register or determined to be eligible for listing in the California Register by the State Historical
7 Resources Commission, including, without limitation, any location listed or determined eligible for, ~~or~~
8 ~~(iv) on~~ the National Register of Historic Places;

9 (2) any other resource for which substantial evidence supports a finding of historic
10 significance, including, but not limited to, compliance with the criteria of Public Resources Code
11 Section 5024.1;

12 ~~(2)(3)~~ any Class 31 categorical exemption;

13 ~~(3)(4)~~ any demolition as defined in Planning Code Section 1005(f) of an existing
14 structure; ~~or,~~

15 ~~(4)(5)~~ any alteration to a building 50 years or older that changes the roof, adds a
16 garage, modifies the front facade except for replacements in kind, or expands the occupied square
17 footage of the building, excluding square footage below grade;

18 (6) any demolition as defined in Planning Code Section 317, of an existing structure;

19 (7) any Class 32 categorical exemption;

20 (8) any project within or affecting a park or open space under the jurisdiction of or
21 designated for acquisition by the Recreation and Park Commission, or any project on land formally
22 designated by ordinance as a park or is subject to the Park Code and under the jurisdiction of any
23 other City department, board or commission; and

24 (9) any community plan exemption.
25

1 ~~Written determinations of categorical exemptions for these types of projects shall be posted in~~
2 ~~the offices of the Planning Department and shall be mailed to any individuals or organizations that~~
3 ~~have previously requested such notice in writing.~~

4 ~~(g)~~(f) **Identification of Final Discretionary Approval Action.**

5 (1) The Planning Department or other City department as authorized by Section
6 31.08(d), when rendering an exemption determination, shall identify the final discretionary approval
7 action for the project. The final discretionary approval action for the project is the issuance of a
8 discretionary permit or other discretionary approval action that the City needs to take to authorize the
9 project sponsor, in the case of a private project, or, the City, in the case of a public project, to begin to
10 carry out the project activities or actions that the Environmental Review Officer described and
11 analyzed in the exemption determination.

12 (2) For private projects, the final discretionary approval action most typically will
13 include, without limitation, a conditional use permit if one is required; or, if not, a building permit as
14 defined in the Building Code Section 106A, including without limitation, a site permit as defined in
15 Building Code Section 106A.3.4.2; or a tentative subdivision map or parcel map.

16 (3) The Planning Department, or other City department that issues an exemption
17 determination, shall identify the final discretionary approval action for the project, along with a short
18 project description, and provide that information to the public prior to or at the time of project
19 approval. The information shall be posted on the Planning Department's website and also may be
20 provided in a written exemption determination, if any, or in information posted by the Planning
21 Department at its office or in a notice about the project or the CEQA decision provided to the public by
22 the Planning Department or other City department.

23 (g) **Certificates of Exemption.** When the Environmental Review Officer, ~~or any other~~
24 ~~department to which the Environmental Review Officer has delegated responsibility pursuant to Section~~
25 ~~31.08(e) above,~~ has determined that a project is ~~excluded or categorically~~ exempt from CEQA,

1 the Environmental Review Officer may, but is not required to, prepare and issue a written
2 Certificate of Exemption from Environmental Review by posting a copy thereof in the offices of
3 the Planning Department and on the Planning Department website, and by mailing copies thereof
4 to the applicant, the board(s), commission(s) or department(s) that will carry out or approve
5 the project, and to any individuals or organizations who have previously requested such notice
6 in writing.

7 (h) **Testimony on Exemption Determination at Planning Commission.**

8 (1) The Planning Department's determination that a project is exempt from CEQA
9 shall be final unless ~~The~~ the Planning Commission as provided for in this Section 31.08(h) directs the
10 Planning Department to reevaluate the exemption determination. ~~may take~~ The Planning Commission
11 shall allow testimony on any ~~categorical~~ exemption determination of the Planning Department prior
12 to project approval at the public hearing, if any, in connection with the Planning Commission's
13 consideration of the project that is the subject of the ~~categorical~~ exemption. If the Planning
14 Commission finds that the Planning Department's exemption determination does not conform to the
15 requirements of CEQA for an exemption, it shall direct the Planning Department to reevaluate the
16 exemption determination or to take such further action as it determines is required by CEQA before it
17 approves the project.

18 (2) When the Planning Department provides public notice of the public hearing at
19 the Planning Commission to consider the project approval for the exempt project, the notice shall: (A)
20 describe the exemption determination; (B) explain how to obtain a copy of the exemption
21 determination; and (C) explain that any person may raise objections to the exemption determination at
22 or before the public hearing at the Planning Commission on the project.

23 (i) **Public Notice of Project Approval.** After an exemption determination is final as
24 provided in Section 31.08(h) of this Chapter, when any other City department provides public notice of
25 any project approval for the exempt project to be considered at a public hearing, the notice shall: (1)

1 describe the exemption determination; (2) explain how to obtain a copy of the exemption
2 determination; (3) explain that any person may raise objections to the exemption determination at or
3 before the public hearing on the project; and (4) explain that any person may appeal the exemption
4 determination to the Board of Supervisors as provided for in Section 31.16 of this Chapter.

5 (j) **Filing of Notices of Exemption.** After the City has decided to carry out or approve the
6 project and the project is considered finally approved as provided for in Section 31.16(b)(11), the
7 Environmental Review Officer may file a Notice of Exemption with the county clerk in the county or
8 counties in which the project is to be located. The Planning Department shall also post any such
9 Notice of Exemption in the offices of the Planning Department and on the Planning Department
10 website, and mailed such Notice of Exemption to the applicant, the board(s), commission(s) or
11 department(s) that will carry out or approve the project, and to any individuals or organizations that
12 have previously requested such notice in writing.

13 (k) **Modification of Exempt Project.** Where a modification occurs to a project that the
14 Planning Department has determined to be exempt, prior to any subsequent approval actions, the
15 Environmental Review Officer shall determine whether the modification requires a new CEQA
16 decision. For purposes of exempt projects, a modification requiring reevaluation under Section
17 31.19(b) shall mean that the Planning Department is presented with a change in the scope of a project
18 as described in the original application upon which Planning based the exemption determination, or
19 the Planning Department is presented with new information regarding the environmental impacts of the
20 project. If the Environmental Review Officer determines that the project requires reevaluation as
21 provided for in Section 31.19(b), the new CEQA decision rendered by the Planning Department or
22 Planning Commission, may be appealed to the Board of Supervisors as provided for in Section 31.16.

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

24 All projects that are not statutorily excluded or categorically exempt from CEQA shall
25 be referred to the Environmental Review Officer, prior to the decision as to whether to carry

1 out or approve the project, for an initial study to establish whether a negative declaration or an
2 environmental impact report is required. By law, the City is allowed 30 days to review for
3 completeness applications for permits or other entitlements for use. While conducting this
4 review for completeness, the Environmental Review Officer should be alert for environmental
5 issues that might require preparation of an environmental impact report or that may require
6 additional explanation by the applicant. As provided for in CEQA Sections 21080.1 and
7 21080.2, in the case of a project that involves an application for a permit or other entitlement
8 for use, the Environmental Review Officer shall determine, within 30 days from the date on
9 which an application for the project is accepted as complete, whether an environmental
10 impact report, a negative declaration, or a mitigated negative declaration shall be required for
11 the project. That determination shall be final and conclusive on all persons, including
12 responsible agencies, unless challenged as provided in CEQA Section 21167.

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

14 (a) Upon receiving an environmental evaluation application for a project, or upon
15 referral of a project by the board, commission or department that is to carry out or approve the
16 project, the Environmental Review Officer shall determine whether such project is exempt
17 from environmental review. If not exempt, the Environmental Review Officer shall complete an
18 initial study to determine the level of environmental analysis required. In the event it is clear at
19 the outset that an environmental impact report is required, the Environmental Review Officer
20 may, with the consent of the applicant, make an immediate determination and dispense with
21 the initial study. Each environmental evaluation application or referral shall include a project
22 description using as its base the environmental information form set forth as Appendix H of
23 the CEQA Guidelines, which form shall be supplemented to require additional data and
24 information applicable to a project's effects, including consistency with the environmental
25 issues included in the Eight Priority Policies set forth in Section 101.1 of the Planning Code

1 and incorporated into the General Plan, shadow impacts, including the analysis set forth in
2 Planning Code Section 295, and such other data and information specific to the urban
3 environment of San Francisco or to the specific project. Each environmental evaluation
4 application or referral shall be certified as true and correct by the applicant or referring board,
5 commission or department. Each initial study shall include an identification of the
6 environmental effects of a project using as its base the environmental checklist form set forth
7 in Appendix G of the CEQA Guidelines and addressing each of the questions from the
8 checklist form that are relevant to a project's environmental effects; provided that the checklist
9 form shall be supplemented to address additional environmental effects, including consistency
10 with the environmental issues included in the Eight Priority Policies set forth in Section 101.1
11 of the Planning Code and incorporated into the General Plan, shadow impacts, including the
12 analysis set forth in Planning Code Section 295, and such other environmental effects specific
13 to the urban environment of San Francisco or to the specific project.

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

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.

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

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

4 (f) Based on the analysis and conclusions in the initial study, the Environmental
5 Review Officer shall determine, based on the requirements of CEQA, whether there is
6 substantial evidence to support a "fair argument" that the project ~~could~~ may have a significant
7 effect on the environment and an environmental impact report is required, ~~and/or~~ whether a project
8 could not have a significant effect on the environment and a negative declaration ~~or environmental~~
9 ~~impact report shall be prepared~~ is required.

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

14 **SEC. 31.11. NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE**
15 **DECLARATIONS.**

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

1 declaration shall also indicate mitigation measures, ~~if any,~~ included in the project to avoid
2 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 on the Planning Department website and mail notice thereof to the
6 applicant and the board(s), commission(s) or department(s) that will carry out or approve the
7 project.

8 (c) The Environmental Review Officer shall provide a notice of intent to adopt a
9 negative declaration ~~or mitigated negative declaration~~ to those persons required by CEQA. In each
10 instance, the Environmental Review Officer shall provide notice by:

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

13 (2) ~~by publication~~ Publication in a newspaper of general circulation in the City,

14 (3) ~~by posting~~ Posting in the offices of the Planning Department and on the
15 Planning Department website.

16 (4) Posting on the subject site. The Planning Department shall develop guidance
17 on the requirements for posting to assure that posters are visible from the closest public street or other
18 public space.

19 (5) ~~by mail~~ Mail to the owners, and, to the extent practical, the residential
20 occupants, of all real property within the area that is the subject of the negative declaration and
21 within 300 feet of all exterior boundaries of such area, and by mail to all organizations and
22 individuals who have previously requested such notice in writing, sufficiently prior to adoption
23 of the negative declaration to allow the public and agencies a review period of not less than
24 ~~twenty (20) days,~~ or ~~thirty (30) days~~ if a 30-day circulation period is required by CEQA. In the
25 case of City-sponsored projects that involve rezonings, area plans or General Plan amendments and

1 are either citywide in scope or the total area of land that is part of the project, excluding the area of
2 public streets and alleys, is 20 acres or more, the Environmental Review Officer shall only be required
3 to mail notice to the owners or occupants within the exterior boundaries of the project area, and to all
4 organizations and individuals who previously requested such notice in writing.

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

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

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

22 (g) After holding such hearing the Planning Commission shall: (1) affirm the
23 proposed negative declaration if it finds that the project could not ~~may~~ have a significant effect
24 on the environment; (2) may refer the proposed negative declaration back to the Planning
25 Department for specified revisions in accordance with CEQA requirements; or (3) ~~shall~~ overrule

1 the proposed negative declaration and order preparation of an environmental impact report if
2 *#the Commission* finds that substantial evidence supports a fair argument that the project may have
3 a significant effect on the environment.

4 (h) If the proposed negative declaration is not appealed as provided herein, or if it is
5 affirmed on appeal, the negative declaration shall be considered final, subject to any
6 necessary modifications. Thereafter, the first City decision-making body to act on approval of
7 the project shall review and consider the information contained in the final negative
8 declaration, together with any comments received during the public review process, and, upon
9 making the findings ~~as provided in~~ required by CEQA, shall adopt the negative declaration, prior
10 to approving the project. All decision-making bodies shall review and consider the negative
11 declaration and make findings as required by CEQA prior to approving the project. The
12 decision-making body that adopts the negative declaration shall promptly so advise the Environmental
13 Review Officer.

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

18 (j) After the City has decided to carry out or approve the project subject to a final
19 negative declaration and the project is considered finally approved as provided for in Section
20 31.16(b)(11), and upon the payment of required fees by the project sponsor, the Environmental
21 Review Officer ~~may~~ shall file a notice of determination with the county clerk in the county or
22 counties in which the project is to be located. If required by CEQA, the notice of determination
23 shall also be filed with the California Office of Planning and Research. When the Environmental
24 Review Officer files a notice of determination with the county clerk, the California Office of Planning
25 and Research, or both, the Planning Department shall also post a copy of the notice of determination in

1 the offices of the Planning Department and on the Planning Department website, and mail a copy of the
2 notice of determination to any individuals or organizations who have previously requested such notice
3 in writing.

4 **SEC. 31.12. DETERMINATIONS THAT ENVIRONMENTAL IMPACT REPORTS ARE**
5 **REQUIRED.**

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

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

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

22 (b) The applicant or the board, commission or department that is to carry out or
23 approve the project shall submit to the Environmental Review Officer such data and
24 information as may be necessary to prepare the draft EIR. If such data and information are
25 not submitted, the Environmental Review Officer may suspend work on the draft EIR. The

1 data and information submitted shall, if the Environmental Review Officer so requests, be in
2 the form of all or a designated part or parts of the proposed draft EIR itself, although the
3 Environmental Review Officer shall in any event make his or her own evaluation and analysis
4 and exercise his or her independent judgment in preparation of the draft EIR for public review.

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

10 (d) When the draft EIR has been prepared, the Environmental Review Officer shall:

11 ~~(1) File~~ a notice of completion of such draft with the California Office of Planning and
12 Research as required by CEQA and make the draft EIR available through the State Clearinghouse if
13 and as required by the California Office of Planning and Research.

14 ~~(2) A Post~~ a copy of such notice, or a separate notice containing the same information,
15 ~~shall thereupon be posted~~ in the offices of the Planning Department and on the Planning
16 Department website, and on the subject site, and The Planning Department shall develop guidance
17 on the requirements for posting on the subject site to assure that posters are visible from the closest
18 public street or other public space.

19 ~~(3) mailed~~ Mail such notice to the applicant, the board(s), commission(s) or
20 department(s) that will carry out or approve the project, and to any individual or organization
21 that has previously requested such notice in writing.

22 ~~(4) Mail the~~ The notice of completion shall be sent by mail to the owners, and, to the extent
23 practical, the residential occupants, of all real property within the area that is the subject of the
24 environmental impact report and within 300 feet of all exterior boundaries of such area. In the
25 case of City-sponsored projects that involve rezonings, area plans or General Plan amendments and

1 are either citywide in scope or the total area of land that is part of the project, excluding the area of
2 public streets and alleys, is 20 acres or more, the Environmental Review Officer shall only be required
3 to mail notice to the owners or occupants within the exterior boundaries of the project area.

4 (5) A Provide a copy of the draft EIR ~~shall be provided~~ to the applicant and to such
5 board(s), commission(s) or department(s) and to any individual or organization that has so
6 requested.

7 **SEC. 31.14. CONSULTATIONS AND COMMENTS.**

8 (a) The Environmental Review Officer shall provide public notice of the availability of the
9 draft EIR and schedule a public hearing on the draft EIR with the Planning Commission. The
10 Environmental Review Officer shall provide the notice of availability at the same time that the notice of
11 completion is filed as required by CEQA. The notice of availability shall be distributed at least 30 days
12 prior to any scheduled public hearing on the draft EIR. The Environmental Review Officer shall
13 distribute the notice of availability in the manner required by CEQA and in each instance ~~Notice shall~~
14 ~~be:~~

15 (1) ~~sent~~ Send the notice to public agencies with jurisdiction by law, and persons
16 with special expertise as follows: ~~after filing a notice of completion as required by CEQA,~~

17 (A) ~~¶~~The Environmental Review Officer shall send a copy of the draft
18 EIR to any public agencies as required by CEQA, and may send copies to and consult with
19 persons who have special expertise with respect to any environmental impact involved.

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

24 (C) For the types of projects set forth in Section 31.08(e)(1) through (4) of
25 this Chapter and for any other projects that may be subject to the approval of the Historic Preservation

1 Commission, the Environmental Review Officer shall send a copy of the draft EIR to the Historic
2 Preservation Commission and obtain any comments that the Historic Preservation Commission has on
3 the draft EIR at a noticed public meeting scheduled at least seven days prior to any Planning
4 Commission hearing on the draft EIR.

5 (2) Post the notice in the offices of the Planning Department, on the Planning
6 Department website, and on the subject site.

7 (3) Publish the notice in a newspaper of general circulation in the City.

8 (4) Mail the notice to the applicant, the board(s), commission(s) or department(s)
9 that will carry out or approve the project, and to any individuals or organizations that previously have
10 requested such notice in writing.

11 (5) Mail the notice to the owners and, to the extent practical, the residential
12 occupants, of all real property within the area that is the subject of the environmental impact report
13 and within 300 feet of all exterior boundaries of such area. In the case of City-sponsored projects that
14 involve rezonings, area plans or General Plan amendments and are either citywide in scope or the total
15 area of land that is part of the project, excluding the area of public streets and alleys, is 20 acres or
16 more, the Environmental Review Officer shall only be required to mail notice to the owners or
17 occupants within the exterior boundaries of the project area.

18 (b) The notice of availability shall contain the information required by CEQA and in each
19 instance shall:

20 (e)(1) ~~Each notice and request for comments shall state~~ State the starting and ending
21 dates for the draft EIR review period during which the Environmental Review Officer will receive
22 comments that any comments must be returned within a certain time after the sending of the draft EIR,
23 and if comments are not returned within that time it shall be assumed that the agency or
24 person has no comment to make that requires a written response in the EIR. The time limit shall
25 normally be thirty (30) days, or forty five (45) days if required by CEQA. public review period shall be

1 not less than 30 days nor more than 60 days except under unusual circumstances. When a draft EIR is
2 submitted to the State Clearinghouse for review by state agencies, the public review period shall not be
3 less than 45 days, unless a shorter period, not less than 30 days, is approved by the State
4 Clearinghouse. The Environmental Review Officer may allow a longer period for comments on
5 projects of exceptional size or complexity. The Planning Commission or the Environmental
6 Review Officer may, upon the request of an agency, commission or person from whom
7 comments are sought, grant an extension of time beyond the original period for comments,
8 but such extension shall not interfere with the holding of any hearing on the draft EIR for
9 which notice has already been given.

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

12 (c) The Planning Department shall make the draft EIR available to the public upon the date
13 of the notice of availability. The Planning Department shall post a copy of the draft EIR on the
14 Planning Department website and provide a copy of the draft EIR in electronic form on a text
15 searchable digital storage device or by text searchable electronic mail transmission when an email
16 address is provided, unless the draft EIR in printed hard copy form is specifically requested, to the
17 applicant and to such board(s), commission(s) or department(s) and to any individuals or
18 organizations that previously have requested a copy in writing.

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

20 (H) — Public participation, both formal and informal, shall be encouraged at all stages
21 of review, and written comments that require a written response in the EIR shall be accepted at
22 any time up to the conclusion of the public comment period. The Environmental Review
23 Officer may give public notice at any formal stage of the review process, beyond the notices
24 required by this Chapter 31 and CEQA, in any manner it may deem appropriate, and ~~may~~
25 ~~maintain a public log as~~ shall post on the Planning Department website the current status of all

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

18 (4)(f) 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 **SEC. 31.15. FINAL ENVIRONMENTAL IMPACT REPORTS.**

22 (a) A final EIR shall be prepared by, or at the direction of, the Environmental Review
23 Officer, based upon the draft EIR, the consultations and comments received during the review
24 process, and additional information that may become available. No less than 10 days prior to the
25 Planning Commission hearing to consider certification of the final EIR, the final EIR shall be made

1 available to the public and to any board(s), commission(s) or department(s) that will carry out or
2 approve the project.

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

8 (c) ~~A public~~ An administrative record shall be kept of each case in which an EIR is
9 prepared, including all comments received in writing in addition to a record of the public
10 hearing or hearings. The final EIR shall indicate the location of such record. ~~Any transcription of~~
11 ~~a hearing record shall be at the expense of the person requesting such transcription.~~ The
12 Environmental Review Officer shall cause the draft EIR hearing record to be transcribed and retained
13 as part of the administrative record.

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

19 (e) All decision-making bodies shall review and consider the EIR and make findings as
20 required by CEQA prior to approving the project. The first decision-making body to approve the
21 project shall promptly so advise the Environmental Review Officer.

22 (f) After the City has decided to carry out or approve the project subject to a final EIR, and
23 the project is considered finally approved as provided for in Section 31.16(b)(1), in accordance with
24 CEQA procedures, and upon the payment of required fees by the project sponsor, the Environmental
25 Review Officer shall file a notice of determination with the county clerk in the county or counties in

1 which the project is to be located. If required by CEQA, the notice of determination shall also be filed
2 with the California Office of Planning and Research. The Environmental Review Officer shall also post
3 the notice of determination in the offices of the Planning Department and on the Planning Department
4 website, and mail a copy of the notice of determination to any individuals or organizations who have
5 previously requested such notice in writing.

6 **SEC. 31.19. EVALUATION OF MODIFIED PROJECTS.**

7 (a) After evaluation of a proposed project has been completed pursuant to this
8 Chapter, a substantial modification of the project may require reevaluation of the proposed
9 project.

10 (b) Where ~~such~~ a modification as defined in Section 31.08(k) occurs as to a project that
11 has been determined to be ~~excluded or categorically~~ exempt pursuant to this Chapter, a new
12 determination shall be made as provided in this Chapter.

13 (1) If the Environmental Review Officer ~~the project is again~~ determines ~~the project~~
14 ~~to be excluded or categorically~~ exempt, ~~no further evaluation shall be required by this Chapter.~~ the
15 Environmental Review Officer shall note the determination and the reasons therefore in the case
16 record, post a notice of the determination in the offices of the Planning Department and on the
17 Planning Department website, and mail such notice to the applicant, the board(s), commission(s) or
18 department(s) that will carry out or approve the project, and to any individuals or organizations that
19 have previously requested such notice in writing.

20 (2) If the project is determined not to be ~~excluded or categorically~~ exempt, an
21 initial study shall be conducted as provided in this Chapter.

22 (c) Where such a modification occurs as to a project for which a negative
23 declaration has been adopted or a final EIR has been certified, the Environmental Review
24 Officer shall reevaluate the proposed project in relation to such modification.

1 (1) If, on the basis of such reevaluation, the Environmental Review Officer
2 determines, based on the requirements of CEQA, that no additional environmental review is
3 necessary, this determination and the reasons therefor shall be noted in writing in the case
4 record, and no further evaluation shall be required by this Chapter. Notice of any such written
5 determination and the reasons therefor shall be posted in the Planning Department, and shall
6 be mailed to the applicant, the board, commission or department that will carry out or approve
7 the project, to any individual or organization that has commented on the environmental
8 document, and to any other individual or organization requesting such notice in writing.

9 (2) If, on the basis of such reevaluation, the Environmental Review Officer
10 determines that additional environmental review is necessary, the project shall be considered
11 a new project for purposes of environmental review pursuant to this Chapter. In that event, a
12 new evaluation shall be completed prior to the decision by the City as to whether to carry out
13 or approve the project as modified. CEQA sets forth specific requirements for the
14 determination of whether a supplemental or subsequent EIR is necessary, as well as the
15 process therefor.

16 Section 3. The Administrative Code is hereby amended by deleting Section 31.16 in its
17 entirety and adding new Section 31.16, to read as follows:

18 **~~SEC. 31.16. APPEAL OF FINAL ENVIRONMENTAL IMPACT REPORTS~~**

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

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

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

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

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

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

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

2 **(a) Decisions Subject to Appeal.** *The following CEQA decisions made by any City*
3 *commission, department, agency or official may be appealed to the Board: (1) Certification of a final*
4 *EIR by the Planning Commission; (2) Adoption of a negative declaration by a City decision-maker; (3)*
5 *Determination by the Planning Commission or Planning Department that a project is exempt from*
6 *CEQA; and (4) Determination by the Environmental Review Officer that no additional environmental*
7 *review is required for a modification to a project that was the subject of a prior EIR, negative*
8 *declaration or exemption determination.*

9 **(b) Appeal Procedures.** *In addition to the applicable requirements of Section 31.16(c)*
10 *pertaining to EIRs, Section 31.16(d) pertaining to negative declarations, Section 31.16(e) pertaining to*
11 *exemption determinations or Section 31.16(f) pertaining to determinations on modified projects, the*
12 *following requirements shall apply to an appeal of any of the decisions listed in Section 31.16(a) of this*
13 *Chapter:*

14 **(1)** *The appellant shall submit a letter of appeal to the Clerk of the Board within the*
15 *time frames set forth in Sections 31.16(c), (d), (e) or (f), as applicable. The letter must state the specific*
16 *grounds for appeal and must be accompanied by a fee, as set forth in Section 31.22 of this Chapter,*
17 *payable to the San Francisco Planning Department. The appellant must sign the letter of appeal or may*
18 *have an agent or attorney file and sign the letter on its behalf. The appellant must also submit with the*
19 *appeal a copy of the CEQA decision being appealed, if available, and otherwise shall submit it when*
20 *available. Appellant shall concurrently submit a copy of the letter of appeal to the Environmental*
21 *Review Officer. The submission to the Environmental Review Officer may be made by electronic means.*
22 **An appeal shall be accepted by the Clerk of the Board with notice given to the appellant that**
23 **the acceptance is conditioned upon the Planning Department determining that the appeal of**
24 **the CEQA decision, whether rendered by the Planning Department or another City**
25 **commission, department, agency or official, has been filed in a timely manner, and the Clerk**

1 otherwise determining that the appeal complies with the requirements of this section. The
2 Planning Department shall make such determination within three working days of receiving
3 the Clerk's request for review. Within seven working days of the filing of the appeal, the Clerk
4 shall mail notice to the appellants of the acceptance or rejection of the appeal. The Clerk may
5 reject a letter of appeal that does not comply with the requirements of this subpart.

6 (2) After receipt of a copy of the letter of appeal, the Environmental Review Officer
7 shall transmit copies of the environmental review documents to the Clerk of the Board not less than 11
8 days prior to the appeal hearing and shall make the administrative record available to the Board.

9 (3) After the Clerk has accepted the letter of appeal and scheduled the appeal for
10 hearing, all project approvals shall be suspended and the City shall not carry out or consider further
11 the approval of the project that is the subject of the appeal while the appeal is pending, except that
12 project-related activities may be undertaken if and only to the extent they are essential to abate hazards
13 to the public health and safety, including abatement of hazards on a structure or site as determined by
14 a qualified City official, including but not limited to the Director of Building Inspection, the Director of
15 Public Works, the Director of Public Health, the Fire Marshal or the Port Chief Engineer, to be an
16 emergency presenting an imminent hazard to the public requiring immediate corrective action.

17 (4) The Clerk of the Board shall schedule the appeal for hearing before the full
18 Board, without regard to any rule or policy of the Board, no less than 30 and no more than 45 days
19 following the date that the Clerk has accepted the letter of appeal and: (A) for exemption
20 determinations, the City has taken an action as described in Section 31.16(e) to approve the project in
21 reliance on the exemption determination; and (B) for EIRs, negative declarations and determinations
22 on modified projects, the applicable time period for filing an appeal as set forth in Sections 31.16(c),
23 31.16(d) or 31.16(f) has expired. The Planning Department shall assist the Clerk in determining
24 whether the City has approved an exempt project and when the time period for filing an appeal of a
25 particular project has expired. No less than 20 days prior to the scheduled hearing date, the Planning

1 Department shall provide to the Clerk of the Board a list of all individuals and organizations that have
2 previously requested notice in writing or have commented on the decision of determination on appeal.
3 No less than 14 days prior to the scheduled hearing date, the Clerk of the Board shall provide notice of
4 the appeal by mail to the appellant or appellants and to all organizations and individuals on the list
5 provided by the Planning Department.

6 (5) If more than one person submits a letter of appeal on a final EIR, the Board shall
7 consider all such appeals in a single hearing. The Board may coordinate its hearing on the CEQA
8 appeal with other hearings on the project, provided that the CEQA appeal shall be heard prior to and
9 separate from any other hearings or decisions on the project.

10 (6) Appellants shall submit all written materials pertaining to the appeal to the
11 Board and the Environmental Review Officer no later than noon, 11 days prior to the scheduled
12 hearing. The Planning Department shall submit a written response to the Board no later than noon,
13 eight days prior to the scheduled hearing. Appellants, members of the public, real parties in interest or
14 City agencies sponsoring the proposed project may also submit a written response to the Board no
15 later than noon, eight days prior to the scheduled hearing. The Clerk will distribute any written
16 documents submitted by these deadlines to the Board through the Board's normal distribution
17 procedures and such written materials will be part of the record. Written materials submitted later
18 than noon, eight days prior to the scheduled hearing, except for Planning Department responses to the
19 appeal submitted up to three days before the hearing, will not be considered part of the record unless a
20 member of the Board of Supervisors submits a formal request in writing, to the Clerk of the Board,
21 on official letterhead, with the Board member's original signature, before or at the appeal
22 hearing, subject to the Board Rules of Order, to include such written materials in the official file and
23 considered as part of the record.

24 (7) The Board shall conduct its own independent review of the CEQA decision
25 including the correctness of any supporting findings contained in the record. The Board shall consider

1 anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA
2 decision, including but not limited to, the sufficiency of the CEQA decision and the correctness of its
3 conclusions. The Board shall consider the written record before it, the Planning Commission, the
4 Environmental Review Officer or other City department, and shall also consider any additional new
5 facts, evidence or issues presented in testimony prior to the close of the appeal hearing.

6 (8) The Board shall act on an appeal within 30 days of the date set for the hearing,
7 provided that if the full membership of the Board is not present on the last day on which said appeal is
8 set for hearing within such 30 days, the Board may postpone the hearing and decision until the full
9 membership of the Board is present. If the Board does not conduct at least three regular Board
10 meetings during such 30 day period, the Board shall decide such appeal within 40 days of the date set
11 for the hearing or at the next regularly scheduled Board meeting should such deadline fall
12 within a Board recess; and provided further that the latest date to which the hearing and decision
13 may be so postponed under this Section shall not be more than 90 days from the date the Clerk
14 schedules the appeal for hearing as provided for in Section 31.16(b)(4).

15 (9) The Board may affirm or reverse any CEQA decision by motion adopted by a
16 vote of a majority of all members of the Board. A tie vote shall be deemed to be disapproval of the
17 CEQA decision. The Board shall adopt findings in support of its decision to affirm or reverse the
18 CEQA decision based on the record.

19 (10) If the Board reverses the CEQA decision, the Board shall remand the matter to
20 the Planning Commission or Planning Department with directions to take further action consistent with
21 the Board's findings.

22 (11) If the Board affirms the CEQA decision, the date of the final EIR, the final
23 negative declaration, exemption determination, or determination of modification, shall be the date upon
24 which the environmental document was originally approved or the exemption determination or
25

1 determination of modification was issued and any decisions made prior to the date that the Clerk
2 determined the appeal qualified for hearing shall be deemed valid.

3 (12) If the Board reverses the CEQA decision, the prior CEQA decision and any
4 actions approving the project in reliance on the reversed CEQA decision shall be deemed void.

5 (13) The date the project shall be considered finally approved shall occur no earlier
6 than either the expiration date of the appeal period, if no appeal is filed, or the date the Board affirms
7 the CEQA decision, if the CEQA decision is appealed.

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

10 (1) Any person or entity may appeal a final EIR by submitting a letter of appeal to
11 the Clerk of the Board after the Planning Commission's certification of the final EIR as complete and
12 no later than 30 days after a City decision-maker first approves the project in reliance on the EIR.

13 (2) The grounds for appeal of an EIR shall be limited to issues related to whether the
14 final EIR complies with the requirements of CEQA, is adequate, accurate and objective, reflects the
15 independent judgment and analysis of the City, and the EIR conclusions and the findings contained in
16 the Planning Commission's certification of the EIR are correct.

17 (3) The Board shall affirm the Planning Commission's certification of the final EIR
18 if the Board finds that the final EIR complies with the requirements of CEQA, it is adequate, accurate
19 and objective and reflects the independent judgment and analysis of the City, and its conclusions and
20 the findings contained in the Planning Commission's certification motion are correct.

21 (4) The Board shall reverse the Planning Commission's certification of the EIR if
22 the Board finds that the final EIR does not comply with the requirements of CEQA, it is not adequate,
23 accurate and objective, it does not reflect the independent judgment and analysis of the City, or its
24 conclusions or the findings contained in the Planning Commission's certification motion are incorrect.
25 If the Board reverses the Planning Commission's certification of the final EIR, it shall make specific

1 findings as to the reasons for its action and remand the final EIR to the Planning Commission for
2 further action consistent with the Board's findings.

3 (d) **Appeal of Negative Declarations.** In addition to those requirements set forth in Section
4 31.16(b) above, the following requirements shall apply only to appeals of negative declarations.

5 (1) Any person or entity may appeal a negative declaration by submitting a letter of
6 appeal to the Clerk of the Board after the Planning Commission has affirmed the negative declaration
7 on appeal, or, if no one appealed the negative declaration to the Planning Commission, after the
8 Planning Department has issued a final negative declaration and no later than 30 days after a City
9 decision-maker adopts the final negative declaration.

10 (2) The grounds for appeal of a negative declaration shall be limited to raising
11 issues related to whether the negative declaration conforms to the requirements of CEQA, the
12 correctness of the finding that the project could not have a significant effect on the environment and
13 that there is no substantial evidence to support a fair argument that the project may have a significant
14 impact on the environment, and the adequacy and feasibility of any proposed mitigation measures.

15 (3) The Board shall affirm the approval of a negative declaration if it finds that the
16 negative declaration conforms to the requirements of CEQA and that the record does not include
17 substantial evidence to support a fair argument that the project may have a significant effect on the
18 environment.

19 (4) The Board shall reverse the approval of the negative declaration if it finds that
20 the record includes substantial evidence to support a fair argument that the project may have a
21 significant effect on the environment, or that the negative declaration does not otherwise comply with
22 the requirements of CEQA. If the Board reverses the negative declaration, the Board shall make
23 specific findings as to the reasons for its action and remand the negative declaration to the Planning
24 Department for further action consistent with the Board's findings.

1 (5) If the Board requires the Planning Department to prepare an EIR, it shall be
2 prepared in accordance with the procedures and requirements set forth in this Chapter 31. If the Board
3 requires the negative declaration to be revised, including the addition or revision of mitigation
4 measures in the project to avoid potentially significant effects, the Environmental Review Officer shall
5 finalize the revised negative declaration consistent with the Board's direction and send notice to the
6 public, as set forth in Section 31.11 of this Chapter 31, of the availability of the revised negative
7 declaration. In the event any organization or individual wishes to appeal the revised negative
8 declaration, such appeal shall be made directly to the Board of Supervisors within 30 days of
9 publication of the revised negative declaration in accordance with the procedures and requirements set
10 forth in this Section 31.16 of this Chapter.

11 (e) **Appeal of Exemption Determinations.** In addition to those requirements set forth in
12 Section 31.16(b) above, the following requirements shall apply to appeals of exemption determinations
13 to the Board of Supervisors.

14 (1) Any person or entity may appeal a final exemption determination for a project by
15 submitting a letter of appeal to the Clerk of the Board within the following time periods:

16 (A) As to any exemption determination for a project for which the
17 Environmental Review Officer or any other City department has provided public notice of the
18 exemption determination as provided for in Section 31.08(e), Section 31.08(f), Section 31.08(g), Section
19 31.08(h), Section 31.08(i), or Section 31.19(b)(1), after the Environmental Review Office or any other
20 City department has provided public notice of the exemption determination and no later than 30 days
21 after the issuance of the discretionary permit or other project-related approval action. In the case of
22 projects involving multiple approval actions, the appeal shall be filed no later than 30 days after a City
23 decision-maker takes the final discretionary approval action identified by the Environmental Review
24 Officer in the exemption determination, as provided for in Section 31.08(f); further, for such projects,

1 the Clerk shall reject any appeal if at the time of the appeal the Board has already considered and
2 upheld the same exemption determination following an earlier appeal.

3 (B) As to any exemption determination for a project for which neither the
4 Environmental Review Officer nor any other City department has provided public notice of the
5 exemption determination as provided for in Section 31.08(e), Section 31.08(f), Section 31.08(g), Section
6 31.08(h), Section 31.08(i) or Section 31.19(b)(1), an appeal may be filed at any time following the
7 appellant's discovery of the exemption determination, provided that such appeal shall be filed no later
8 than 60 days after the issuance of the discretionary permit or other project-related approval action.

9 (C) The appeal periods in this Section 31.16(e) shall apply even if the
10 conclusion of any appeal period for the discretionary permit or permits or project approval or
11 approvals is less than the appeal period for the exemption determination. Departments that issue
12 discretionary permits or other project approvals that are subject to separate, shorter appeal periods for
13 the permits or other project approvals than provided for in this Chapter 31 for the appeal of an
14 exemption determination, shall take steps as they determine appropriate to advise applicants seeking
15 permits or other appealable project approvals of the longer appeal period for exemption
16 determinations provided for in this Chapter 31.

17 (2) The grounds for appeal of an exemption determination shall be limited to
18 whether the project conforms to the requirements of CEQA for an exemption.

19 (3) The Board shall affirm the exemption determination if it finds that the project
20 conforms to the requirements of CEQA for an exemption.

21 (4) The Board shall reverse the exemption determination if it finds that the project
22 does not conform to the requirements of CEQA for an exemption. If the Board finds that the project
23 does not conform to the requirements of CEQA for an exemption, the Board may remand the exemption
24 determination to the Environmental Review Officer for revisions or reconsideration, or may reverse the
25 determination and require preparation of an appropriate environmental document. If the Board

1 reverses the exemption determination, the Board shall make specific findings as to the reasons for its
2 action and shall remand the matter to the Planning Department for the preparation of a negative
3 declaration or an EIR, as appropriate.

4 **(f) Appeal of Determinations on Modified Projects.**

5 (1) In addition to those requirements set forth in Section 31.16(b) of this Chapter, any
6 person or entity may appeal the Environmental Review Officer's determination in Section 31.19(c)(1)
7 of this Chapter that no additional environmental review is necessary for modifications to a project that
8 was the subject of a prior EIR or negative declaration, following the written notice given by the
9 Environmental Review Officer pursuant to Section 31.19(c)(1) of this Chapter and for up to 30 days
10 following the notice.

11 (2) The grounds for appeal under this Section 31.16(f) shall be limited to whether
12 the project modification requires additional environmental review.

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

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

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

23 By: _____
24 ELAINE WARREN
25 Deputy City Attorney

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