

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

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

7
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 ~~strike-through 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

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

13 By: _____
14 ELAINE WARREN
15 Deputy City Attorney