

REVISED LEGISLATIVE DIGEST

(7/16/2013, Amended in Board)

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

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

Existing Law

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

Amendments to Current Law

The proposed ordinance establishes procedures for appeal of exemption determinations and negative declarations to the Board of Supervisors and updates some of the procedures in San Francisco Administrative Code Chapter 31 to reflect revisions to CEQA and the CEQA Guidelines and to codify certain administrative procedures that the San Francisco Planning Department has found workable in practice. The primary updates to Chapter 31 are as follows:

- **Section 31.04. Responsibility and Definitions.**
 - Deletes a no longer relevant reference to the San Francisco Redevelopment Agency.
 - Clarifies certain administrative functions of entities within the City and County to reflect actual practice and changes in local law, including activities of the Clerk of the Board, the Historic Preservation Commission ("HPC") and the Environmental

Review Officer ("ERO") in transmitting notices to the County Clerk. Provides that the HPC may review projects that may impact historic or cultural resources.

- **Notifications.** Adds Section 31.04(g) to provide for notices electronically unless someone requests a hard copy or if otherwise specified by CEQA. The Planning Department ("Planning") must provide a hard copy notice to persons requesting such notice before the effective date of this provision unless they affirmatively opt for electronic notice.
- **Electronic Notification System.** In Section 31.04(g), requires Planning to establish an electronic notification system for all notices provided under Chapter 31. The system must allow persons to pick different specified categories of projects or different types of CEQA documents for which they would like to receive electronic notice. The system must be operative within three months of operative date of ordinance. If not, Planning must provide monthly progress reports to the Board.
- **Definitions.** Adds Section 31.04(h) to define "Approval Action," "Building Permit," "Date of the Approval Action," and "Entitlement of Use for the Whole of the Project," all of which relate to describing the approval action for a project that triggers the ability to file an appeal of a CEQA exemption determination or negative declaration to the Board of Supervisors.
- Defines "Approval Action" for an exempt project as:
 - (1) for private projects:
 - (A) the first approval of the project in reliance on the exemption at a noticed public hearing at the Planning Commission, or, if no such hearing is required,
 - (B) the first approval in reliance on the exemption that grants an entitlement for the whole of the project, either by another commission, board or official after a public hearing or by any official of the City without a public hearing.
 - (2) for the City's own projects (e.g. not private projects):
 - (A) the first approval in reliance on the exemption of the project at a noticed public hearing, or
 - (B) if approved without a public hearing, the decision in reliance on the exemption that commits the City to a definite course of action in regard to the project.

- Defines “Approval Action” for projects covered by a negative declaration to mean the approval of the project by the first City decision-making body that adopts the negative declaration.
- **Section 31.05. Office of Environmental Review.**
 - Clarifies existing practice, which is that all projects subject to CEQA are referred to the ERO unless the ERO has delegated specified exemption determinations to another City entity.
 - In Section 31.05(l), adds a new finding by the Board that expediting environmental review for publicly funded affordable housing projects and bicycle and pedestrian safety projects for purposes of expediting permit processing qualifies as a public policy basis. It then directs Planning to give precedence through all stages of the environmental review process to these projects. As part of its preliminary assessment of projects, Planning must determine within 60 days of a complete assessment application whether a project qualifies for exemption. It directs Planning to identify issues that affect the type, schedule and process of environmental review.
 - In Section 31.05(m) adds a new requirement that the ERO provide an annual report to the Planning Commission and the Board of Supervisors on appeals filed under any of the appeal provisions of the ordinance.
- **Section 31.08. Exemptions.**
 - Updates the ordinance to be consistent with existing Planning Department practice, which is to apply Chapter 31 procedures for projects covered by statutory exemptions, categorical exemptions, community plan exemptions and general rule exclusions.
 - Requires the Planning Department to post on its website and provide to city departments a list of the types of projects in the city that Planning has identified as categorically exempt.
 - Provides in Section 31.08(d) that when departments other than Planning issue exemptions, they shall inform Planning and provide Planning with a copy of each exemption determination containing the information specified in Section 31.08(e). Planning shall post that information on its website.
 - **Posting and Noticing Exemptions.** In Section 31.08(e) specifies posting and notices requirements for exemptions:

(1) Requires for each exemption determination, that Planning post on its website a project description; the type or class of exemption; other information, if any, supporting the exemption determination; the City approval action that is the Approval Action for the project; and the date of the exemption determination.

(2) Requires for projects that involve multiple discretionary permits or other project approvals, that Planning additionally post on its website a list of other discretionary approval actions known to the ERO at the time of the exemption determination and describe the whole of the project for all the discretionary approval actions.

(3) In Section 31.08(e)(2), provides that Planning may use a written exemption determination form, such as a Certificate of Exemption from Environmental Review. If such a form is used, it shall contain the information required by Section 31.08(e)(1). Planning shall post it on its website and at its offices, and mail copies to the applicant, City entities that will approve the project, and anyone requesting written notice.

(4) In Section 31.08(e)(3) requires Planning to use a written exemption determination and provide notice in accordance with Section 31.08(e)(2) for all projects involving historic resources, Class 31 categorical exemptions, any demolition, any Class 32 categorical exemption, and any community plan exemption. Clarifies the definition of projects that involve historic resources or demolitions for purposes of this requirement.

o **Noticing Approval Actions for Exempt Projects.**

(1) Requires in Section 31.08(f)(1) that public hearing notices inform the public if the City will take an Approval Action that triggers the ability to file an appeal of a CEQA exemption determination to the Board of Supervisors. Such notices must advise the public of the exemption determination, how to obtain a copy, and the consequences of failing to timely raise objections to the exemption.

(2) Requires in Section 31.08(f)(2) that when the Planning Department provides notice under Planning Code Sections 311 and 312 (advising of the right to request a discretionary review hearing) the notice shall contain the information in Section 31.08(f)(1) and advise those noticed that if a discretionary review hearing is requested and the project is approved by the Planning Commission, such approval will be the Approval Action that triggers the ability to file an appeal of the CEQA exemption determination. If a discretionary review hearing is not requested, the issuance of the Building Permit will trigger the Approval Action.

(3) Requires in Section 31.08(g) that when City entities take an Approval Action on a City project (e.g. a project not involving private entitlements) without a

noticed public hearing, the City entity shall arrange for Planning to post a notice on Planning's website informing the public that the CEQA exemption may be appealed to the Board of Supervisors within 30 days after the first date of posting of the notice.

- **Filing Notices of Exemption.** In Section 31.08(h) specifies that notices of exemption, which CEQA provides may be filed with the County Clerk to start the running of a statute of limitation, may be filed only after a project is approved and the appeal period to the Board has expired with no appeal filed, or, if an appeal has been filed, the exemption upheld. In addition to filing these notices with the County Clerk, and the state Office of Planning and Research if specified by CEQA, the ordinance also requires Planning to post the notices in its offices, on the website and to mail the notices to anyone who has requested notice.
- **Modification of Exempt Project.** Adds Section 31.08(i) to provide:
 - (1) When an exempt project changes after the Approval Action and it requires a subsequent approval, the ERO must determine whether the change is a substantial modification. A substantial modification is defined as:
 - (A) A change in the project in a way that constitutes an expansion or intensification of the project, such as expanding the building envelope, changing the use, or undertaking a demolition.
 - (B) New information presented to the ERO that was not known and could not have been known with the exercise of reasonable diligence at the time of the original determination, that shows the project no longer qualifies for the exemption.
 - (2) When a project is substantially modified, the ERO shall make a new CEQA decision as provided for in Section 31.19(b), which could be a new exemption, or an initial study, leading to a negative declaration or environmental impact report. The new CEQA decision will be subject to appeal to the Board.
 - (3) When the ERO determines that a change in a project is not a substantial modification, the ERO shall post that determination on its website and in its offices, and mail the notice to the applicant, City approving entities, and anyone requesting written notice.
- **Sections 31.09 and 31.10. Determination of Need for and Initial Evaluation of Projects.**
 - Makes minor clarifying revisions to these sections to reflect actual practice of the Planning Department in its initial evaluation of projects.

- Clarifies in Section 31.10(f) that in accordance with CEQA, the ERO shall determine whether there is substantial evidence to support a “fair argument” that a project may have a significant effect on the environmental and an EIR is required, or whether a project could not have a significant effect on the environment and a negative declaration is required.
- **Section 31.11. Negative Declarations or Mitigated Negative Declarations.**
 - Provides for Planning to develop guidance for posting notices on the subject site so posters are visible from the closest public location.
 - Provides in Section 31.11(c)(5) that for rezonings, area plans or general plan amendments covering 20 acres or more, Planning is not required to mail a notice of intent to each property owner within 300 feet of the exterior boundaries of the project area, but adds a requirement that for all mailed notices, it must include residential occupants, if practical. Provides that Planning shall post all preliminary negative declarations on its website.
 - Provides in Section 31.11(d) that the notice of intent shall inform the public that only persons appealing the preliminary negative declaration to the Planning Commission will be permitted to appeal the final negative declaration to the Board of Supervisors.
 - Provides in Section 31.11(h) that a notice proposing to adopt the negative declaration and take the Approval Action for the project shall advise the public of its appeal rights to the Board of Supervisors following the Approval Action in reliance on the negative declaration.
 - Specifies in Section 31.11(j) that a CEQA-required notice of determination shall be filed with the County Clerk to start the running of a statute of limitation, only after a project is approved and the appeal period to the Board has expired with no appeal filed, or, if an appeal has been filed, the exemption upheld. Also, the applicant must have paid any required fees. In addition to filing these notices with the County Clerk, and the state Office of Planning and Research if specified by CEQA, the ordinance also requires Planning to post the notice in its offices, on the website and to mail the notice to anyone who has requested notice.
- **Sections 31.12 – 31.15. Environmental Impact Reports.**
 - Deletes language at the beginning of Section 31.12 concerning when to prepare an EIR because that issue is now addressed by Section 31.10(f). Updates and clarifies the noticing, posting and distribution requirements of CEQA and the

practices of the Planning Department with respect to environmental impact reports (EIRs).

- Provides in Section 31.14(a)(1) that the Planning Department shall obtain comments from the Historic Preservation Commission on a draft EIR for any projects that may impact historic or cultural resources. Planning shall obtain any comments seven days before the Planning Commission holds a public hearing on the draft EIR, unless to do so would extend the comment period, in which case, it shall obtain comments as far in advance of the Planning Commission hearing as possible.
- Provides in Section 31.14(a)(5) that for rezonings, area plans or general plan amendments covering 20 acres or more, Planning is not required to mail a notice of availability of the Draft EIR to each property owner within 300 feet of the exterior boundaries of the project area, but adds a requirement that for all mailed notices, it must include residential occupants, if practical. Provides that Planning shall post all draft EIRs on its website.
- Provides in Section 31.14(b)(3) that the notice of availability shall inform the public that only commenters on the Draft EIR will be permitted to file an appeal of the certified EIR to the Board of Supervisors.
- Requires in Section 31.14(c) that Planning make the draft EIR available on Planning's website and provide a copy in electronic form on a text searchable digital storage device or by text searchable electronic mail transmission to anyone who requests a copy and provides an email address, unless they request a hard copy.
- Requires in Section 31.15(a) that Planning make a final EIR available to the public no less than 10 days before the Planning Commission hearing to consider certification of the final EIR.
- Provides in Section 31.15(c) for retention as part of the administrative record a transcription of a recording by a phonographic reporter of any public hearing on a draft EIR.
- Provides in Section 31.15(d) that the notice of the certification hearing shall inform the public of its appeal rights to the Board of Supervisors after such date.
- In section 31.15(e) contains the same provision regarding the filing of notices of determination for EIRs as found in Section 31.11(j) for negative declarations.
- **Section 31.16. Appeal of CEQA Decisions to the Board of Supervisors.**

- Deletes existing Section 31.16 pertaining to appeals of final EIRs and proposes a new Section 31.16 to address appeals of exemption determinations, negative declarations and environmental impact reports. Adds an entirely new Section 31.16.
- Provides in Section 31.16(a) that exemption determinations, negative declarations and environmental impact reports may be appealed to the Board of Supervisors.
- Specifies the period in which appeals may be filed:
 - (1) For an EIR, no later than 30 days after certification of the EIR by the Planning Commission.
 - (2) For a negative declaration, after the Planning Commission approves the negative declaration and within 30 days of the Date of the Approval Action taken in reliance on the negative declaration.
 - (3) For exemptions, after an exemption is issued and within one of these periods as applicable:
 - (A) For a private project seeking a permit, license or other entitlement for which the City provides a separate appeal process for the entitlement, within 30 days of the Date of the Approval Action, even where the appeal period for the entitlement is shorter. Departments that grant entitlements supported by an exemption determination shall take steps to advise applicants that the appeal period for exemption determinations is 30 days after approval of the entitlement.
 - (B) For the City's own projects not involving a private entitlement, if the Approval Action is taken at a public hearing, within 30 days of the Date of the Approval Action; if the Approval Action is taken without a public hearing, within 30 days of the posting on Planning's website of a notice as provided in Section 31.08(g).
 - (C) If no City entity posts the exemption determination on the City's website or otherwise provides notice of the exemption determination under Chapter 31, an appeal may be filed within 30 days of discovery of the exemption determination.
- Specifies the requirements for filing an appeal: one must pay a fee, and the person filing the appeal must have submitted comments during the public comment period on the draft EIR if the appeal is of an EIR; if the appeal pertains to a negative declaration, one must have first appealed the negative declaration to the Planning Commission. The grounds for the appeal must be filed with the appeal.

- Provides that the Planning Department shall advise the Clerk of the Board in three working days after an appeal is filed whether the appeal is timely. The Clerk will have seven working days to advise the appellant whether the appeal complies with all of the ordinance requirements, including whether it was timely filed.
- Specifies that for projects requiring multiple approvals, after the Clerk has scheduled the appeal for hearing and while the appeal is pending at the Board, other City agencies and officials may not carry out or approve the project, except for taking essential actions to abate hazards to public health and safety. The Board must affirm the CEQA decision before it approves the project, however, it may hold hearings on the project and pass proposed approval actions out of committee without recommendation so that the project approvals and CEQA appeal may be consolidated before the full Board. If the Board reverses the CEQA determination of Planning, all approvals taken by other City agencies and officials, including those taken during the pendency of the appeal, are void.
- Specifies the time frame for the ERO to transmit the environmental documents to the Board and to provide the Board with a list of interested parties.
- Directs the Clerk to schedule the appeal hearing before the full Board. The Clerk shall schedule the CEQA appeal hearing no less than 21 and no more than 45 days following the expiration of the time for filing the appeal and provide at least a 14 day notice of the appeal hearing.
- Provides that the Board President may consolidate multiple appeals on the same project so they are heard simultaneously.
- Specifies that the public, appellant and project sponsor may submit written materials to the Clerk no later than noon, 11 days prior to the scheduled hearing.
- Provides that the Clerk will distribute materials submitted by noon, eight days before the hearing, through the Clerk's normal distribution procedure.
- Provides that the Board shall act within 30 days of the scheduled hearing date but may extend this to not more than 90 days from the deadline for filing the appeal under specified circumstances.
- Specifies the actions that the Board may take for each kind of appeal and the process for then completing the CEQA document in the event the Board reverses the decision of the Planning Commission or Planning Department. If the Board upholds the CEQA decision, prior approval actions are valid. If the Board reverses the CEQA decision, prior approval actions are void.

(1) In the case of EIRs, if the Board reverses Planning's certification, any further appeals of the revised EIR are limited to revised portions, including any new information, and an appellant must comment on the revised EIR at any earlier public hearing on the revisions.

(2) In the case of a negative declaration, if the Board reverses Planning's approval, the Board may remand the negative declaration to Planning for revision and if so, further appeals of the revised negative declaration are limited to the revised portions. The Board may alternatively require preparation of an EIR, in which case, Planning shall prepare the EIR in accordance with CEQA and the requirements of this Chapter 31.

- **Section 31.19. Evaluation of Modified Projects.**
 - Revises Section 31.19(b) to provide that when the ERO determines that a change in an exempt project is a substantial modification as defined in Section 31.08(i), the ERO shall make a new CEQA decision – either an exemption determination or an initial study, and if necessary, prepare an EIR.
 - Provides that Planning may issue guidance to other City departments in determining the type of project modification for exempt projects that might occur after an Approval Action that would require additional CEQA review.
- **Section 4.** Includes findings expressing an intent by the Board of Supervisors to reaffirm the policies and objectives stated in Chapter 31, Section 31.02, and to not change any policies or objectives in CEQA, or to limit any rights of appeal under CEQA or the authority of the Board of Supervisors or the Planning Commission to hear and decide CEQA appeals as provided in Chapter 31.
- **Section 5.** Specifies an effective date for the ordinance of 30 days after passage.
- **Section 6.** Specifies an "Operative Date" of no earlier than September 1, 2013, and not until after the Planning Department has demonstrated to the Planning Commission that it has updated its website to provide up-to-date information to the public about each CEQA exemption determination in a format searchable by location, such as through the "Active Permits In My Neighborhood" tool now used by the Planning Department and the Building Department.

Background Information

The ordinance is proposed to update the City's existing CEQA procedures so that they conform to current provisions of CEQA and CEQA Guidelines, reflect current Planning Department practices; provide for codified procedures for appealing EIRs, negative

declarations and exemption determinations to the Board; and provide for enhanced noticing of CEQA decisions. The provisions concerning appeals to the Board are intended to respond to requirements in the CEQA statute that if the Board, as the elected body of the City, does not make the final decision regarding a CEQA decision, and instead, such decisions are made by the Planning Commission or Planning Department, the public has the right to appeal those decisions of Planning to the elected Board.

Prior to 2003, the CEQA statute provided for appeals of EIR certifications to the elected decision-making body where a non-elected decision-making body certified the EIR. In response to this earlier provision of CEQA, the City codified an appeal process for EIRs, which is currently found in Administrative Code Chapter 31.16. The Legislature amended the CEQA statute in 2003 to provide that where a non-elected decision-making body of a lead agency adopts a negative declaration or makes a determination that a project is exempt from CEQA, the negative declaration or CEQA exemption may be appealed to the lead agency's elected decision-making body, if any, after the project is approved. Since 2003, the City has not amended Chapter 31 to provide for an appeal process for negative declarations or exemption determinations. Instead, the City has relied on interim guidelines issued by the Clerk's Office, City Attorney opinions on ripeness and timeliness of appeals and Board Rules of Order for conducting land use appeal hearings.

The substitute ordinance introduced on April 2, 2013, and heard in the Land Use Committee on April 8, 2013, differed from the proposed ordinance in these main respects:

Section 31.04.

- Section 31.04(g), did not contain an automatic opt-out provision from electronic notice for those receiving mailed notices now. Did not require Planning to establish the electronic notification system described in Section 31.04(g).
- Section 31.04(h) included a definition for EIR Approval Actions.
- A Section 31.04(i) required Planning to identify the Approval Action for each project for which it rendered a CEQA decision.

Section 31.05.

- Did not contain Section 31.05(l) pertaining to priority processing for affordable housing and bicycle and pedestrian safety projects.
- Did not require the Planning Department to prepare an annual report to the Planning Commission and the Board of Supervisors on appeals filed under Chapter 31.

Section 31.08.

- Did not require other departments that grant exemptions to provide specified information about the exemption to Planning or require Planning to post this information on its website.
- Section 31.08(e) did not require posting on Planning's website of certain information about each exemption, including those requiring multiple approval actions. Instead, required posting and mailed notice by written determination of specified types of exempt projects, which included projects involving historic resources, demolitions and in-fill exemptions, but not projects involving community plan exemptions.
- Section 31.08(h), did not require Planning to post notices of exemption on its website, in its offices or mail such notices to those requesting notice. Similarly, these requirements were not in the ordinance for notices of determination for negative declarations and EIRs in Sections 31.11(j) and 31.15(e).
- Section 31.08(i) specified that Planning may issue a new CEQA decision for a modified project, however, it did not contain detailed language defining a "substantial modification" that would trigger a new CEQA decision.

Section 31.10.

- Included language from CEQA Guidelines Section 15064(f) and 15070 instead of the language now found in this section.

Section 31.11.

- Required on-site posting, however, it did not require Planning to develop guidance for the size of on-site posters or require Planning to provide mailed notice to residents, and if practicable, occupants, or to provide mailed notice of a preliminary negative declaration within the project area for area plan projects of greater than 20 acres. Similarly, Section 31.14(a)(5) did not contain a comparable provision for EIR projects.

Sections 31.12 – 31.15.

- Did not require Planning to obtain comments from the Historic Preservation Commission on a draft EIR seven days before the Planning Commission hearing on the draft EIR.
- Did not require Planning to make the draft EIR available on its website in a text searchable form and did not require Planning to make the final EIR available to the public at least 10 days before the Planning Commission certification hearing.

Section 31.16.

- Defined the Board as the CEQA decision-maker for projects that the Board must approve and, in such cases, provided that the Board would not hold a separate appeal hearing, but instead, the Board would consider CEQA issues along with project approval items and approve Planning's CEQA decision before it approved the project.
- Provided for appeal of EIRs after certification and the first project approval action.
- Required all written materials in support of an appeal to be filed along with the appeal.
- Did not contain details about how the Clerk and Planning would determine the timeliness and adequacy of an appeal.
- Provided that project approvals could continue during the pendency of an appeal, except not any actions that would physically change the environment except for emergency actions.
- Provided for scheduling appeal hearings not less than 30, instead of not less than 20 days after the appeal period expired.
- Did not provide for appellant to submit a reply five days before the scheduled hearing to Planning's response to an appeal.
- Did not specify that materials submitted after specified deadlines would be excluded from the record unless approved by five Board members.

Section 31.19(b), Section 4, Section 6.

- Did not contain revisions to Section 31.19(b), the language in Section 4, or the language in Section 6, pertaining to an Operative Date.

The Land Use Committee amended the April 8, 2013 ordinance on April 22, 2013, to include these changes:

- Deleted language in Section 31.16 pertaining to the Board as the CEQA decision-maker and required all hearings on CEQA appeals to be heard before the full Board.
- In Section 31.16, minimized changes to the existing EIR appeal process.
- Clarified language in two places regarding the "fair argument" standard.
- Required Planning to identify the Approval Action for each project.

- Clarified actions that Planning should take when an exempt project is modified and clarified that when Planning determines a modified project is still within the scope of the original project, it should put a note in the file to that effect.
- Allowed exemption and negative declaration appeals to be filed in the window between the CEQA decision and within 30 days of the Approval Action, although provided that the Clerk would not schedule the appeals until the appeal period expired.
- Provided that anyone could request hard copies of notices in lieu of electronic copies, even where Planning had an electronic address.
- Provided that the ordinance would not be operative until an online notice system was up and running for all exemptions, even those issued over-the-counter.

The Land Use Committee further amended the ordinance on May 6, 2013, to include these changes:

- Clarified that when Planning identified the Approval Action for a CEQA decision it would post that information on its website, in addition to any other manner that Planning chose to make the information available.
- Provided that departments other than Planning that issue exemptions must inform Planning and provide Planning with copies and Planning must make the information about such exemptions available on its website to the same extent that it does for other exemptions.
- Clarified that if an exempt project was modified, an additional CEQA decision would be required if the modified project exceeded the scope of the original project for any aspect of the project regulated under the Planning Code or introduced a new use not previously included in the project.
- Added a requirement that Planning provide notice when it determined that a project modification was sufficiently minor not to trigger a new CEQA decision.
- Provided that Planning was not required to file a notice of determination until the Project Sponsor had paid any required fees for such filing.
- Provided that once the Clerk had scheduled an appeal for hearing, other City boards and commissions could not take action to carry out or approve the project.
- Required that Planning advise the Clerk on the timeliness of appeals within three working days of the date the appeal is filed; provided that the Clerk has seven days from the date the appeal is filed to determine if the appeal complies with the requirements in the ordinance for filing an appeal, including whether it is timely.

The Land Use Committee further amended this ordinance on May 13, 2013, to include this change:

- In Section 31.16, deleted a provision providing that materials submitted less than eight days before an appeal hearing would not be distributed. Replaced the provision with one that provides that materials submitted less than eight days before an appeal hearing other than Planning Department responses to an appeal will not be part of the record unless five members of the Board agree at the appeal hearing or before, subject to the Board's Rules of Order, to include such written materials in the record.

The Land Use Committee further amended this ordinance on May 20, 2013, to include this change:

- In Section 31.16, added various amendments requested by the Clerk's Office to clarify certain appeal procedures, including Planning's role in determining timeliness of appeals, the process for Board members to request late submittals be included in the record, and the schedule for the Clerk to set appeal hearings when the Board is in recess.