

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 **Environmental Review Officer to reconsider a determination of the Environmental**
5 **Review Officer that an exempt project modification does not require a new decision**
6 **under the California Environmental Quality Act; and making environmental findings.**

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8 NOTE: Additions to Codes are in single-underline italics Times New Roman font.
9 Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
10 Board amendment additions are in double-underlined Arial font.
11 Board amendment deletions are in ~~strikethrough Arial font~~.

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. 130464 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.~~**

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21 **(j) Appeal of a Determination That Change in Exempt Project is Not A Substantial**
22 **Modification.**

23 (1) Within 10 days of the posting of the notice of a determination that a change in an
24 exempt project is not a substantial modification as defined in 31.08(i), an appeal may be filed with the
25 Environmental Review Officer requesting that the Environmental Review Officer reverse the

1 determination and render a new CEQA decision for the project. Such an appeal is not an appeal of a
2 CEQA decision under the California Environmental Quality Act.

3 (2) If such an appeal is filed when a regularly scheduled meeting of the Planning
4 Commission will be held within 20 days of the filing of the appeal, the Environmental Review Officer
5 shall hold a noticed public hearing on the day of a Planning Commission meeting held within such 20
6 day period. If no Planning Commission meeting is held within the 20 day period, the hearing shall take
7 place on the day of one of the next two regularly scheduled Planning Commission meetings after such
8 20-day period.

9 (3) At the public hearing, the Environmental Review Officer shall reconsider the
10 prior determination in light of all information provided by all parties present, including any project
11 sponsor, as well as written information submitted at or before the public hearing.

12 (4) If after such reconsideration, the Environmental Review Officer determines that
13 the original determination was in error, the Environmental Review Officer shall render a new CEQA
14 decision for the project in accordance with the requirements of CEQA and this Chapter 31.

15 (5) If after such reconsideration, the Environmental Review Officer determines that
16 the original decision was not in error, the original determination of the Environmental Review Officer
17 shall be final.

18 (6) The Environmental Review Officer shall issue a written decision on the appeal
19 within 14 days of the public hearing, and an oral report of the decision shall be provided to the
20 Planning Commission at the next possible meeting after such decision.

21 (7) To the extent feasible, and subject to the budgetary and fiscal provisions of the
22 Charter, such hearing shall be video-recorded and broadcast by the official television channel of the
23 City and County of San Francisco. At a minimum, such hearing shall be video-recorded and made
24 available on the website of the City and County of San Francisco.

1 (8) The Planning Department may adopt additional procedures for such appeals.

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

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

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

12 By: _____
13 ELAINE WARREN
14 Deputy City Attorney
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