 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; providing for the Board to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; 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.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

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

Section 2. The Administrative Code Chapter 31 is hereby amended by amending Sections 31.04, 31.05, 31.06, 31.08, 31.09, 31.10, 31.11, 31.12, 31.13, 31.14, and 31.15, and 31.19 to read as follows:
SEC. 31.04. RESPONSIBILITY AND DEFINITIONS.

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

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

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

(d) For proposed projects that the Environmental Review Officer of the Planning Department has determined may have an impact on historic or cultural resources, the Historic Preservation Commission has the authority pursuant to Charter Section 4.135 to review and comment on such environmental documents and determinations under in a manner consistent with CEQA and this Chapter 31.

(e) Where adoption of administrative regulations by resolution of the Planning Commission after public hearing is specified herein, there shall be notice by publication in a newspaper of general circulation in the City at least twenty-(20) days prior to the hearing and by posting in the offices of the Planning Department, with copies of the proposed regulations.
sent to the Board of Supervisors and any other affected boards, commissions and
departments of the City and to all organizations and individuals who have previously
requested such notice in writing. The decision of the Commission in adopting administrative
regulations shall be final.

(f) The City shall be responsible for conducting environmental review for projects
undertaken by the City within the City’s territorial limits and for projects undertaken by the City
outside the territorial limits of the City.

(g) **Notifications.**

(1) Unless CEQA requires a mailed notice by the United States Postal Service in
hard copy form, or an organization or individual requests notice in hard copy
form, a City official may provide any mailed notice required by this Chapter using electronic mail
transmission whenever an organization or individual provides an email address to the City
official; provided that any notices required by this Chapter shall be provided by mail in hard
copy form to any organizations or individuals who have requested such notice in writing prior
to the effective date of this provision unless such organizations or individuals affirmatively
request electronic notification as provided below has an email address for the individual or
organization.

(2) **Electronic Notifications.** The Environmental Review Officer shall
implement an electronic notification system for the notification requirements in this Chapter
31. The Environmental Review Officer shall offer interested organizations and individuals the
opportunity to subscribe to an automated electronic mail notification system. The system shall
distribute all notifications required by this Chapter to subscribers. Subscribers shall have the
option to receive electronic mail regarding all CEQA notifications or all CEQA notifications for:
(i) a specific project; (ii) a specific neighborhood, as defined by the Planning Department for
notification purposes; (iii) historic districts designated under Articles 10 or 11 of the Planning
Code or listed on the National Register of Historic Places; (iv) exemption determinations; (v) negative declarations; and (vi) environmental impact reports. The Environmental Review Officer shall implement the electronic notification system within three months of the operative date of the ordinance enacting this provision of Chapter 31. In the event the system is not operable within such period, the Planning Department shall provide monthly status reports to the Board of Supervisors on the progress the Planning Department has made in implementing the electronic notification system.

(h) **Definitions.**

“Approval Action” means:

(1) **For a private project seeking an entitlement from the City and determined to be exempt from CEQA:**

(A) The first approval of the project in reliance on the exemption by the City Planning Commission following a noticed public hearing, including, without limitation, a discretionary review hearing as provided for in Planning Code Section 311 or Section 312, or, if no such hearing is required, either:

(B) The first approval of the project in reliance on the exemption by another City commission, board or official following a noticed public hearing granting an Entitlement of Use for the Whole of the Project; or

(C) The issuance of the Building Permit or other Entitlement of Use for the Whole of the Project in reliance on the exemption without a noticed public hearing.

(2) **For all other projects determined to be exempt from CEQA:**

(A) The first approval of the project in reliance on the exemption by a City decision-making body at a noticed public hearing; or
(B) If approved without a noticed public hearing, the decision by a City department or official in reliance on the exemption that commits the City to a definite course of action in regard to a project intended to be carried out by any person.

(3) For all projects determined to require the preparation of a negative declaration, the approval of the project by the first City decision-making body that adopts the negative declaration or mitigated negative declaration as provided for in Section 31.11(h) of this Chapter.

(4) For all projects determined to require the preparation of an environmental impact report, the approval of the project by the first City decision-making body following the certification of completion of the environmental impact report by the Planning Commission as provided for in Section 31.15(d) of this Chapter.

“Building Permit” means a permit issued by the Department of Building Inspection as provided by Building Code Section 106A, including, without limitation, a site permit as defined in Building Code Section 106A.3.4.2.

“Date of the Approval Action” means the date the City takes the action on the project that is defined as the “Approval Action,” regardless of whether the Approval Action is subject to an administrative appeal.

“Entitlement of Use for the Whole of the Project” means an entitlement that authorizes the project applicant to carry out the project as described in the CEQA determination decision for the project. Incidental permits needed to complete a project, such as a tree removal permit or a street encroachment permit that alone do not authorize the use sought, would not be an Entitlement of Use for the Whole of the Project, unless such permit is the primary permit sought for the project.

(i) The Planning Department or other City department as authorized by Section 31.08(d), when rendering a CEQA decision, shall identify the Approval Action for the project and provide that information to the public prior to or at the time of project approval. The information shall be posted on Planning Department’s website and also may be provided in an
environmental review document or exemption determination, in information posted by the
Planning Department at its offices or on its website, or in a notice about the project or the
CEQA decision provided to the public by the Planning Department or other City department.

SEC. 31.05. OFFICE OF ENVIRONMENTAL REVIEW.

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

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

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

(d) The Environmental Review Officer shall also take such measures, within his or
her powers, as may be necessary to assure compliance with this Chapter 31 by persons, and
officials, boards, commissions, departments or agencies outside the Planning Department,
and shall periodically review the effectiveness and workability of the provisions of this Chapter
31 and recommend any refinements or changes that he or she may deem appropriate for
improvement of such provisions.
(e) All projects that are not excluded or categorically exempt from CEQA shall be referred to the Environmental Review Officer except those exempt projects covered by a delegation agreement with the Environmental Review Officer as provided for in Section 31.08(d) of this Chapter.

All other officials, boards, commissions, departments, bureaus and offices of the City shall cooperate with the Environmental Review Officer in the exercise of his/her responsibilities, and shall supply necessary information, consultations and comments.

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

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

(h) Adoption and/or revision of administrative regulations to implement CEQA shall be by resolution of the Planning Commission after a public hearing. The Environmental Review Officer may adopt necessary forms, checklists and processing guidelines to implement CEQA and this Chapter 31 without a public hearing.

(i) Upon prior authorization by the Planning Commission, the Environmental Review Officer may attend hearings and testify on matters related to CEQA before governmental organizations and agencies other than governmental agencies of the City and County of San Francisco and may advocate on behalf of the City on matters related to CEQA.
(j) The Environmental Review Officer may provide information to other governmental or environmental organizations and members of the public.

(k) The Environmental Review Officer may delegate his or her responsibilities to an employee of the Office of Environmental Review. All references herein to the Environmental Review Officer shall be deemed to include the Environmental Review Officer’s delegate.

(l) The Environmental Review Officer shall process applications for environmental review in accordance with the requirements for equal treatment of permit applicants, unless there is a written finding of a public policy basis for not doing so, as set forth in Campaign and Governmental Conduct Code Section 3.400 and the written guidelines adopted by the Planning Department as required by Section 3.400. For purposes of Section 3.400, this Section of Chapter 31 and any corresponding written guidelines of the Planning Department, the Board finds that expediting environmental review out of order, on a priority basis for the purpose of expediting permit processing shall qualify as a public policy basis for projects consisting of: (1) publicly funded affordable housing projects that provide new affordable housing in 100 percent of the on-site dwelling units (where such units are rented or sold at the economic levels defined in Planning Code Section 415); and (2) bicycle and pedestrian projects that are designed primarily to address public safety issues. When an application for environmental review for any project within one of the categories listed above is submitted to the Planning Department, the Environmental Review Officer shall, throughout all stages of the environmental review process, give precedence to all submittals associated with such project over other projects. The Planning Department also shall provide a written preliminary assessment of the eligibility of such projects for an exemption within 60 days of submittal of a complete Preliminary Project Assessment or equivalent application to the Planning Department. As part of the assessment, the Planning Department shall identify as feasible.
based on the content of the submittal, the issues that may affect the type and schedule of the
environmental review and the process for analysis of such issues.

(m) The Environmental Review Officer shall prepare an annual report to the
Planning Commission and the Board of Supervisors on all appeals filed under any of the
appeal provisions of this Chapter 31. The first annual report shall be filed approximately one
year after the effective date of this provision of Chapter 31.

SEC. 31.06. COVERAGE OF STATE LAW.

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

SEC. 31.08. CATEGORICAL EXEMPTIONS.

(a) CEQA provides that certain classes projects are exempt from CEQA because: the
project is exempt by statute ("statutory exemption"); the project is in a class of projects that generally
do not have a significant effect on the environment and therefore are categorically exempt from
CEQA ("categorical exemption"); CEQA streamlining procedures allow reliance on a prior
environmental document prepared on a zoning or planning level decision, for example, as provided in
community plan areas and for specified urban infill projects ("community plan exemption"), except as
might be necessary to examine whether there are project-specific significant effects, which
are peculiar to the project or its site; or the activity is covered under the general rule that CEQA
applies only to projects that have the potential for causing a significant effect on the environment, thus, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA ("general rule exclusion"). Unless otherwise specifically stated, reference in this Chapter 31 to "exemptions" or "exempt from CEQA" or an "exemption determination" shall collectively refer to statutory exemptions, categorical exemptions, community plan exemptions and general rule exclusions.

(b) For categorical exemptions:

(1) Each public agency must list the specific activities that fall within each such class, subject to the qualification that these lists must be consistent with both the letter and the intent of the classes set forth in CEQA. Except as provided in this section 31.08, projects that are categorically exempt are not subject to the requirements of this Chapter 31.

(b)(2) The Environmental Review Officer shall maintain the required list of the types of projects which are categorically exempt, and such list shall be kept posted in the offices of the Planning Department and on the Planning Department website, and shall provide it to all City departments. Such list shall be kept up to date in accordance with any changes in CEQA and any changes in the status of local projects. The initial list and any additions, deletions and modifications thereto shall be adopted as administrative regulations by resolution of the Planning Commission after public hearing, according to the procedure set forth in Section 31.04(e) of this Chapter.

(c)(3) CEQA provides for public agencies to request that the Secretary of the Resources Agency make additions, deletions and modifications to the classes of projects listed as categorically exempt in CEQA. The Planning Commission shall make any such requests, after a public hearing thereon held according to the procedure specified in Section 31.04(e) of this Chapter for adoption of administrative regulations.
(d)(c) The Environmental Review Officer may adopt necessary forms, checklists and processing guidelines to aid the Planning Department and other departments in determining that whether a project may be categorically exempt in accordance with the letter and the intent expressed in the classes of categorical exemptions specified in CEQA and with the administrative regulations adopted by the Planning Commission.

(e)(d) The Environmental Review Officer shall advise other departments of the requirements of CEQA for determining whether a project is exempt from environmental review the categorical exemptions. The Environmental Review Officer may delegate the determination whether a project is categorically exempt from CEQA to other departments, provided that other departments shall consult with the Environmental Review Officer regarding the application of the categorical exemptions. Further, at the time of each exemption determination, such other departments shall inform the Environmental Review Officer and, if written, provide to the Environmental Review Officer a copy of the exemption determination containing the information specified in Section 31.08(e) of this Chapter 31, to the Environmental Review Officer, and provided further that the Environmental Review Officer shall be responsible for all determinations so delegated to other departments. When the Planning Department or other City department determines that a project is exempt from CEQA, the issuance of the exemption determination shall be considered an exemption determination by the Planning Department. The Environmental Review Officer shall post on its website the same information about exemption determinations issued by other departments as it provides for exemption determinations issued by the Planning Department.

(f)(e) When the Environmental Review Officer, or any other department to which the Environmental Review Officer has delegated responsibility pursuant to Section 31.08(e)(d) above, has determined that a project is excluded or categorically exempt from CEQA, the Environmental Review Officer following provisions shall apply:
(1) **Posting Exemption Determinations.**

(A) For all exemption determinations, the Environmental Review Officer shall post on the Planning Department website the following information about each exemption determination: (1) a project description in sufficient detail to convey the location, size, nature and other pertinent aspects of the scope of the proposed project as necessary to explain the applicability of the exemption; (2) the type or class of exemption determination applicable to the project; (3) other information, if any, supporting the exemption determination; (4) the Approval Action for the project, as defined in Section 31.04(h); and (5) the date of the exemption determination.

(B) For projects that involve the issuance of multiple discretionary permits or other project approvals, in addition to the requirements of Section 31.08(e)(1)(A), the Environmental Review Officer shall describe and evaluate the whole of the project that will result from all discretionary approvals and identify any additional discretionary approvals required other than the Approval Action that are known to the Environmental Review Officer at the time of the issuance of the exemption determination, and post this information on the Planning Department website.

(1)(2) The Environmental Review Officer may issue a Certificate of Exemption from Environmental Review by preparing a written exemption determination containing the information in Section 31.08(e)(1), and by posting a copy in the offices of the Planning Department and on the Planning Department website, and by mailing copies to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individuals or organizations and individuals who previously have requested such notice in writing.

(2)(3) The Environmental Review Officer shall prepare a Certificate of Exemption from Environmental Review or comparable written exemption determination and provide notice to the public as provided for in Section 31.08(e)(2) shall be provided for all such
determinations involving the following types of projects involving: (1)(A) any historical resources, as defined in CEQA, including without limitation, as any buildings and sites listed individually or located within districts (i) listed in Planning Code Articles 10 or 11, (ii) in City-recognized historical surveys, (iii) on an historic resource survey that has been adopted or officially recognized by the City, on the California Register or determined eligible for listing on the California Register by the State Historical Resources Commission, including, without limitation, any location, or (iv) listed on or determined eligible for the National Register of Historic Places, or (ii) a resource that the Environmental Review Officer determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1; (2)(B) any Class 31 categorical exemption; (2)(C) any demolition as defined in Planning Code Section 317 or in Planning Code Section 1005(f) of an existing structure; or, (4)(D) any Class 32 categorical exemption; or (e) any community plan exemption. Written determinations of categorical exemptions for these types of projects shall be in writing, posted in the offices of the Planning Department and on the Planning Department's website, and shall be mailed to any individuals or organizations that have previously requested such notice in writing.  

(g)(f) Informing the Public of the Approval Action for a Project as Part of Public Hearing Notice.  

(1) When the Planning Department or other City department provides notice of a public hearing on the Approval Action for a project that it has determined to be exempt from CEQA, the notice shall:

(A) Inform the public of the exemption determination and how the public may obtain a copy of the exemption determination;

(B) Inform the public of its appeal rights to the Board of Supervisors with respect to the CEQA exemption determination following the Approval Action and within the time frame specified in Section 31.16 of this Chapter; and
(C) Inform the public that under CEQA, in a later court challenge a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process, if any, on the CEQA determination decision.

(2) Additionally, when the Planning Department provides a notice under Planning Code Section 311 or Section 312 of the opportunity to request a discretionary review hearing before the Planning Commission on a Building Permit application, the notice shall:

(A) Contain the information required by this Section 31.08(f) in addition to any notice requirements in the Planning Code;

(B) Inform the notification group that if a discretionary review hearing is requested before the Planning Commission, the Approval Action for the project under this Chapter 31 will occur upon the Planning Commission’s approval of the Building Permit application, if such approval is granted; and

(C) Inform the notification group that if a discretionary review hearing is not requested, the Approval Action for the project will occur upon the issuance of a Building Permit by the Department of Building Inspection, if such permit is granted. The notice also shall advise the notification group of how to request information about the issuance of the Building Permit.

(g) A City board, commission, department or official that grants the Approval Action for a project of the type defined in Section 31.16(f)(e)(2)(B) of this Chapter, which Approval Action is taken without a noticed public hearing as provided for in Section 31.08(f) of this Chapter, shall thereafter arrange for the Planning Department to post on the Planning Department’s website a written decision or written notice of the Approval Action for the project that informs the public of the first date of posting on the website and advises the public that the exemption determination may be appealed to the Board of Supervisors as provided in Section 31.16(f)(e)(2)(B) of this Chapter within 30 days after the
first date of posting of the notice. When the Environmental Review Officer, or any other department to which the Environmental Review Officer has delegated responsibility pursuant to Section 31.08(e) above, has determined that a project is excluded or categorically exempt from CEQA, the Environmental Review Officer may issue a Certificate of Exemption from Environmental Review by posting a copy thereof in the offices of the Planning Department, and by mailing copies thereof to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individuals or organizations who have previously requested such notice in writing.

(h) **Filing Notice of Exemption.** After the City has decided to carry out or approve the project and the project is considered finally approved as provided for in Section 31.16(e)(b)(11), in accordance with CEQA procedures, the Environmental Review Officer may file a notice of exemption with the county clerk in the county or counties in which the project is to be located. The Planning Commission may take testimony on any categorical exemption at the public hearing, if any, in connection with the Planning Commission’s consideration of the project that is the subject of the categorical exemption. The Planning Department shall also post a copy of the notice of exemption in the offices of the Planning Department and on the Planning Department website, and mail a copy of the notice of exemption to any organizations and individuals who previously have requested such notice in writing.

(i) **Modification of Exempt Project.**

(1) The Environmental Review Officer has the authority under Section 31.19(b) to re-evaluate the application of an exemption to a project in the event that a project changes after the Approval Action for the project. As provided for in Section 31.19(b), the Environmental Review Officer shall consider the modified project relative to the project description as provided in the original application submitted to the Planning Department and the project description in the exemption determination. If, upon this consideration, the Environmental Review Officer concludes that the project as modified exceeds the scope of the

...
original project for any aspect of the project regulated under the Planning Code, or introduces a new use not previously included in the project, then the Environmental Review Officer shall issue a new exemption determination or, if the project would no longer be eligible for an exemption, the Environmental Review Officer shall inform the project sponsor that an initial study will be required. If the modified project requires a new CEQA decision, the
Where a change occurs to a project that the Environmental Review Officer has determined to be exempt, prior to any subsequent approval actions, the Environmental Review Officer shall determine whether the change is a substantial modification that requires reevaluation as provided for in Section 31.19(b) of this Chapter 31. A substantial modification of an exempt project requiring reevaluation under Section 31.19(b) shall mean either:

(A) A change in the project as described in the original application upon which the Environmental Review Officer based the exemption determination, or in the exemption determination posted on the Planning Department website at the time of issuance, which would constitute an expansion or intensification of the project as defined in the Planning Code. An expansion or intensification of the project as defined in the Planning Code includes, but is not limited to: (A) a change that would expand the building envelope or change the use that would require public notice under Planning Code Sections 311 or 312, or (B) a change in the project that would constitute a demolition under Planning Code Sections 317 or 1005(f).

(B) New information or evidence of substantial importance presented to the Environmental Review Officer that was not known and could not have been known with the exercise of reasonable diligence at the time the Environmental Review Officer issued the exemption determination that shows the project no longer qualifies for the exemption.

(2) When the Environmental Review Officer determines that a change in a project is a substantial modification, the Environmental Review Officer shall make a new CEQA decision as provided for under Section 31.19(b) of this Chapter 31. The Planning...
Department will require payment of fees as defined in the Department’s fee schedule for the applicable type of environmental review. When the Planning Commission or Planning Department renders a new CEQA exemption determination decision for a project after the Approval Action, as provided for in Section 31.19(b), and the City takes a new Approval Action for the project in reliance on the new CEQA determination decision, the new CEQA determination decision may be appealed in accordance with the provisions of Section 31.16 of this Chapter, as to those issues associated with the project changes since the original exemption determination.

(3) When the Environmental Review Officer determines that a change in an exempt project is not a substantial modification, the Environmental Review Officer shall post a notice of the determination in the offices of the Planning Department and on the Planning Department website and mail such notice to the applicant, board(s), commission(s) or department(s) that will carry out or approve the project, and to any organizations and individuals who previously have requested such notice in writing.

SEC. 31.09. DETERMINATION OF NEED FOR EVALUATION.

Upon receiving an environmental evaluation application for a project; upon referral of a project by the board, commission or department that is to carry out or approve the project; or through such other process for rendering an exemption determination as the Environmental Review Officer shall authorize, the Environmental Review Officer shall determine whether such project is exempt from environmental review. For all projects that are not statutorily excluded or categorically exempt from CEQA, shall be referred to the Environmental Review Officer, prior to the City's decision as to whether to carry out or approve the project, the Environmental Review Officer shall conduct for an initial study to establish whether a negative declaration or an environmental impact report is required. In the event it is clear at the outset that an environmental impact report is required, the Environmental Review Officer may make an immediate determination and dispense with the initial study.
SEC. 31.10. INITIAL EVALUATION OF PROJECTS.

(a) Upon receiving an environmental evaluation application for a project, or upon referral of a project by the board, commission or department that is to carry out or approve the project, the Environmental Review Officer shall determine whether such project is exempt from environmental review. If not exempt, the Environmental Review Officer shall complete an initial study to determine the level of environmental analysis required. In the event it is clear at the outset that an environmental impact report is required, the Environmental Review Officer may, with the consent of the applicant, make an immediate determination and dispense with the initial study. Each environmental evaluation application or referral shall include a project description using as its base the environmental information form set forth as Appendix H of the CEQA Guidelines, which form shall be supplemented to require additional data and information applicable to a project's effects, including consistency with the environmental issues included in the Eight Priority Policies set forth in Section 101.1 of the Planning Code and incorporated into the General Plan, shadow impacts, including the analysis set forth in Planning Code Section 295, and such other data and information specific to the urban environment of San Francisco or to the specific project. Each environmental evaluation application or referral shall be certified as true and correct by the applicant or referring board, commission or department. Each initial study shall include an identification of the environmental effects of a project using as its base the environmental checklist form set forth in Appendix G of the CEQA Guidelines and addressing each of the questions from the checklist form that are relevant to a project's environmental effects; provided that the checklist form shall be supplemented to address additional environmental effects, including consistency with the environmental issues included in the Eight Priority Policies set forth in Section 101.1 of the Planning Code and incorporated into the General Plan, shadow impacts, including the analysis set forth in Planning Code Section 295.
including the analysis set forth in Planning Code Section 295, and such other environmental
effects specific to the urban environment of San Francisco or to the specific project.

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

(c) The applicant or the board, commission or department that is to carry out or
approve the project shall submit to the Environmental Review Officer such data and
information as may be necessary for the initial study. If such data and information are not
submitted, the Environmental Review Officer may suspend work on the initial evaluation.

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

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

(f) In accordance with CEQA, Public Resources Code Sections 21080(c) and
21080(d), based on the analysis and conclusions in the initial study, the Environmental
Review Officer shall determine whether there is substantial evidence to support a “fair
argument” that the project may have a significant effect on the environment and an
environmental impact report is required, or whether a project could not have a significant
effect on the environment and a negative declaration is required.

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(1) Prepare a negative declaration if there is no substantial evidence, in light of the whole record before the Planning Department, that the project may have a significant effect on the environment.

(2) Prepare a mitigated negative declaration if the initial study identified potentially significant effects, but (A) revisions in the project plans or proposals made by or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (B) there is no substantial evidence, in light of the whole record before the Planning Department, that the project as revised may have a significant effect on the environment.

(3) Prepare an environmental impact report if the Planning Department determines based on substantial evidence in the record that the project may have a significant effect on the environment. In other words, if the Planning Department is presented with a fair argument that a project may have a significant effect on the environment, the Planning Department shall prepare an environmental impact report even though it may also be presented with other substantial evidence that the project will not have a significant effect.

determine, based on the requirements of CEQA, whether there is a “fair argument” that the project could have a significant effect on the environment, and whether a negative declaration or environmental impact report shall be prepared.

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

SEC. 31.11. NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE DECLARATIONS.
(a) When the Environmental Review Officer determines that a negative declaration or a mitigated negative declaration is the appropriate level of environmental review required by CEQA, such determination shall be prepared by or at the direction of the Environmental Review Officer. Unless otherwise specifically stated, reference in this Chapter 31 to "negative declaration" shall collectively refer to a negative declaration and a mitigated negative declaration. The negative declaration shall include the information required by CEQA and in any event shall describe the project proposed, include the location of the property, preferably shown on a map, and the name of the project proponent, state the proposed finding that the project could not have a significant effect on the environment, and have attached to it a copy of the initial study documenting reasons to support that finding. The negative declaration shall also indicate mitigation measures, if any, included in the project to avoid potentially significant effects.

(b) The Environmental Review Officer shall first prepare a negative declaration on a preliminary basis, and shall post a copy of the proposed negative declaration in the offices of the Planning Department and on the Planning Department website, and mail notice thereof to the applicant and the board(s), commission(s) or department(s) that will carry out or approve the project.

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

1. Mail to the applicant and the board(s), commission(s) or department(s) that will carry out or approve the project.
2. Publication in a newspaper of general circulation in the City.
3. Posting in the offices of the Planning Department and on the subject site.
(4) Posting on the subject site. The Planning Department shall develop guidance on the requirements for posting to assure that posters are visible from the closest public street or other public space.

(4)(5) by mail to the owners of all real property, and to the extent practicable, the residential occupants, within the area that is the subject of the negative declaration and within 300 feet of all exterior boundaries of such area, and by mail to all organizations and individuals who have previously requested such notice in writing, sufficiently prior to adoption of the negative declaration to allow the public and agencies a review period of not less than twenty (20) days, or thirty (30) days if a 30-day circulation period is required by CEQA. In the case of City-sponsored projects that involve rezonings, Area Plans or General Plan amendments and are either citywide in scope or the total area of land that is part of the project, excluding the area of public streets and alleys, is 20 acres or more, the Environmental Review Officer shall not be required to provide notice by mail pursuant to this Section 31.11(c)(4) except to the owners, and to the extent practicable, the residential occupants, within the exterior boundaries of the project area, and to all organizations and individuals who previously requested such notice in writing.

(d) The notice of intent shall specify the period during which comments are to be received, the date, time and place of any public hearings on the project when known to the Planning Department at the time of the notice, a brief description of the project and its location, and the address where copies of the negative declaration and all documents referenced in the negative declaration are available for review, and the Planning Department staff contact. The notice of intent shall include a statement that no appeal of the negative declaration to the Board of Supervisors under Section 31.16 of this Chapter will be permitted unless the appellant first files an appeal of the preliminary negative declaration to the Planning Commission, and any other information as required by CEQA.
(e) Within twenty (20) days, or thirty (30) days if required by CEQA, following the publication of the notice of intent, any person may appeal the proposed negative declaration to the Planning Commission, specifying the grounds for such appeal. Any person may submit comments on the proposed negative declaration.

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

(g) After holding such hearing the Planning Commission shall affirm the proposed negative declaration if it finds that the project could not have a significant effect on the environment, may refer the proposed negative declaration back to the Planning Department for specified revisions, or shall overrule the proposed negative declaration and order preparation of an environmental impact report if it finds based on substantial evidence to support a fair argument that the project may have a significant effect on the environment.

(h) If the proposed negative declaration is not appealed as provided herein, or if it is affirmed on appeal, the negative declaration shall be considered final, subject to any necessary modifications. Thereafter, the first City decision-making body to act on approval of the project shall review and consider the information contained in the final negative declaration, together with any comments received during the public review process, and, upon making the findings as provided in required by CEQA, shall adopt the negative declaration, prior to approving the project. A public notice of the proposed action 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 with respect to the negative declaration following the Approval Action in
reliance on the negative declaration and within the time frame specified in Section 31.16 of this
Chapter. All decision-making bodies shall review and consider the negative declaration and
make findings as required by CEQA prior to approving the project.

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

(j) After the City has decided to carry out or approve the project and the project is considered finally approved as provided for in Section 31.16(e)(b)(11), in accordance with CEQA procedures, and upon the payment of required fees by the project sponsor, the Environmental Review Officer shall file a notice of determination with the county clerk in the county or counties in which the project is to be located. If required by CEQA, the notice of determination shall also be filed with the California Office of Planning and Research. When the Environmental Review Officer files a notice of determination with the county clerk or the California Office of Planning and Research or both, the Planning Department also shall post a copy of the notice of determination in the offices of the Planning Department and on the Planning Department website, and mail a copy of the notice of determination to any organizations and individuals who previously have requested such notice in writing.

SEC. 31.12. DETERMINATIONS THAT ENVIRONMENTAL IMPACT REPORTS ARE REQUIRED.

When the Environmental Review Officer determines that it is determined that a project may have a significant effect on the environment and that an environmental impact report is required by CEQA, the Environmental Review Officer shall distribute a notice of preparation in the manner and
containing the information required by CEQA and provide such other notice as required by CEQA. In
addition, the Environmental Review Officer shall prepare a notice advising the public of the notice of
preparation and of any scheduled scoping meetings and publish the notice of preparation in a
newspaper of general circulation in the City, shall post the notice of preparation in the offices
of the Planning Department and on the Planning Department website, and shall mail the notice of
preparation to the applicant, the board(s), commission(s) or department(s) that will carry out
or approve the project and to all organizations and individuals who have previously requested
such notice in writing. The Environmental Review Officer shall provide such other notice as
required by CEQA.

SEC. 31.13. DRAFT ENVIRONMENTAL IMPACT REPORTS.

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

(b) The applicant or the board, commission or department that is to carry out or
approve the project shall submit to the Environmental Review Officer such data and
information as may be necessary to prepare the draft EIR. If such data and information are
not submitted, the Environmental Review Officer may suspend work on the draft EIR. The
data and information submitted shall, if the Environmental Review Officer so requests, be in
the form of all or a designated part or parts of the proposed draft EIR itself, although the
Environmental Review Officer shall in any event make his or her own evaluation and analysis
and exercise his or her independent judgment in preparation of the draft EIR for public review.

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

(d) When the draft EIR has been prepared, the Environmental Review Officer shall file a notice of completion of such draft with the California Office of Planning and Research as required by CEQA and make the draft EIR available through the State Clearinghouse if and as required by the California Office of Planning and Research. A copy of such notice, or a separate notice containing the same information, shall thereupon be posted in the offices of the Planning Department and on the subject site, and mailed to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individual or organization that has requested such notice in writing. The notice of completion shall be sent by mail to the owners of all real property within the area that is the subject of the environmental impact report and within 300 feet of all exterior boundaries of such area. A copy of the draft EIR shall be provided to the applicant and to such board(s), commission(s) or department(s) and to any individual or organization that has so requested.

SEC. 31.14. CONSULTATIONS AND COMMENTS.

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

(1) _______ sent _______ Send the notice to any public agencies with jurisdiction by law that CEQA requires the lead agency to consult with and request comments from on the draft EIR, and may send copies of the draft EIR to and consult with, in the discretion of the Environmental Review Officer, other persons with special expertise with respect to any environmental impact involved, as
follows: after filing a notice of completion as required by CEQA, the Environmental Review Officer shall send a copy of the draft EIR to any public agencies as required by CEQA, and may send copies to and consult with persons who have special expertise with respect to any environmental impact involved.

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

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

(B) For the types of projects set forth in Sections 31.08(e)(3)(A) and 31.08(e)(3)(B) of this Chapter 31, and for any other projects that may be subject to the approval of the Historic Preservation Commission, the Environmental Review Officer shall send a copy of the draft EIR to the Historic Preservation Commission and obtain any comments that the Historic Preservation Commission has on the draft EIR at a noticed public meeting. The Planning Department shall schedule the public meeting at least seven days prior to any Planning Commission hearing on the draft EIR. But, if the calendars of the two commissions do not allow such scheduling without extending the noticed public comment period, the Planning Department shall schedule the public meeting as far in advance of the Planning Commission hearing as possible, consistent with not extending the public comment period.
(2) Post the notice in the offices of the Planning Department and on the Planning Department website, and on the site of the project.

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

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

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

(5)(6) Mail the notice to the owners of all real property, and to the extent practicable, the residential occupants, within the area that is the subject of the environmental impact report and within 300 feet of all exterior boundaries of such area. In the case of City-sponsored projects that involve rezonings, area plans or General Plan amendments and are either citywide in scope or the total area of land that is part of the project, excluding the area of public streets and alleys, is 20 acres or more, the Environmental Review Officer shall not be required to provide notice by mail pursuant to this Section 31.14(a)(5) to the owners and, to the extent practicable, the residential occupants within the exterior boundaries of the project area, and to all organizations and individuals who previously requested such notice in writing.

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

(1) State the starting and ending dates for the draft EIR review period during which the Environmental Review Officer will receive comments and if comments are not returned within that time it shall be assumed that the agency or person has no comment to make. The public review period shall not be less than 30 days nor more than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall
not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State
Clearinghouse. The Planning Commission or the Environmental Review Officer may, upon the request
of an agency or person with special expertise from whom comments are sought, grant an extension of
time beyond the original period for comments, but such extension shall not prevent with the holding of
any hearing on the draft EIR for which notice has already been given.

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

(3) State that only commenters on the Draft EIR will be permitted to file an appeal of
the certification of the Final EIR to the Board of Supervisors under Section 31.16 of this Chapter.

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

(e) Each notice and request for comments shall state that any comments must be returned
within a certain time after the sending of the draft EIR, and if comments are not returned within that
time it shall be assumed that the agency or person has no comment to make. The time limit shall
normally be thirty (30) days, or forty five (45) days if required by CEQA. The Environmental Review
Officer may allow a longer period for comments on projects of exceptional size or complexity. The
Planning Commission or the Environmental Review Officer may, upon the request of an agency or
person from whom comments are sought, grant an extension of time beyond the original period for
comments, but such extension shall not interfere with the holding of any hearing on the draft EIR for which notice has already been given.

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

(1) Public participation, both formal and informal, shall be encouraged at all stages of review, and written comments shall be accepted at any time up to the conclusion of the public comment period. The Environmental Review Officer may give public notice at any formal stage of the review process, beyond the notices required by this Chapter 31 and CEQA, in any manner the Environmental Review Officer may deem appropriate, and may maintain a public log as the status of all projects under formal review. Members of the general public shall be encouraged to submit their comments in writing as early as possible.

(2) The draft EIR shall be available to the general public upon filing of the notice of completion.

(3+4) The Planning Commission shall hold a public hearing on every draft EIR during the public comment period, with such hearing combined as much as possible with other activities of the Planning Commission. The Environmental Review Officer may, upon delegation by the Planning Commission, take testimony at supplemental public hearing(s) on draft EIRs, in addition to, and not in lieu of, the hearing conducted by the Planning Commission, and shall report to and make all testimony received by the Environmental Review Officer available to the Planning Commission at a public hearing. Notice of the Planning Commission hearings and all hearings at which the Environmental Review Officer takes testimony shall be given by publication in a newspaper of general circulation in the City at least 30 days prior to the hearing, by posting in the offices of the Planning Department, by posting on or near the site proposed for the project; and by mail sent not less than 30 days prior to the hearing to the applicant, to the board, commission or department that is to carry out or approve the project, and to any other individual or organization requesting such notice.
(4) The draft EIR, including any revisions made prior to or during the public hearing, shall be the basis for discussion at the hearing. To the extent feasible, any comments already received from any agency, organization or individual shall be available at the public hearing.

(f) To the extent practicable, any comments already received from any agency, organization or individual shall be available at the public hearing.

SEC. 31.15. FINAL ENVIRONMENTAL IMPACT REPORTS.

(a) A final EIR shall be prepared by, or at the direction of, the Environmental Review Officer, based upon the draft EIR, the consultations and comments received during the review process, and additional information that may become available. Not less than 10 days prior to the Planning Commission hearing to consider certification of the final EIR, the final EIR shall be made available to the public and to any board(s), commission(s) or department(s) that will carry out or approve the project.

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

(c) A public administrative record of proceedings shall be kept of each case in which an EIR is prepared, including all comments received in writing in addition to a record of the public hearing. The final EIR shall indicate the location of such record. The Environmental Review Officer shall cause the hearing on the draft EIR record to be recorded by a phonographic reporter and transcribed and retained as part of the administrative record. Any separate or additional transcription of a hearing record shall be at the expense of the person requesting such transcription.
(d) When the final EIR has been prepared and in the judgment of the Planning Commission it is adequate, accurate and objective, reflecting the independent judgment and analysis of the Planning Commission, the Planning Commission shall certify its completion in compliance with CEQA. The notice of the Planning Commission hearing on the certification of the final EIR shall inform the public of the expected Date of the Approval Action on the project and of its appeal rights to the Board of Supervisors with respect to the final EIR after such date and within the time frame specified in Section 31.16 of this Chapter. The certification of completion shall contain a finding as to whether the project as proposed will, or will not, have a significant effect on the environment.

(e) After the City has decided to carry out or approve the project and the project is considered finally approved as provided for in Section 31.16(e)(b)(11), in accordance with CEQA procedures and upon the payment of required fees by the project sponsor, the Environmental Review Officer shall file a notice of determination with the county clerk in the county or counties in which the project is to be located. If required by CEQA, the notice of determination shall also be filed with the California Office of Planning and Research. The Environmental Review Officer shall also post the notice of determination in the offices of the Planning Department and on the Planning Department website, and mail a copy to any organizations and individuals who previously have requested such notice in writing.

SEC. 31.19. EVALUATION OF MODIFIED PROJECTS.

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

(b) Where such a modification occurs as to a project that has been determined to be excluded or categorically exempt pursuant to this Chapter, a new determination shall be made as provided in this Chapter. For a project that the Planning Department has determined
is exempt, when a project changes and a City department re-references the project application to the Planning Department for review, such review shall include the Environmental Review Officer. The Environmental Review Officer shall consider the modified project relative to the project description as provided in the original application submitted to the Planning Department and the project description in the exemption determination. When the Environmental Review Officer determines that a change in an exempt project is a substantial modification as defined in Section 31.08(i), the Environmental Review Officer shall make a new CEQA decision as provided in this Chapter.

(1) If the Environmental Review Officer again determines that the project as modified is exempt, the Environmental Review Officer shall make a new exemption determination in accordance with the applicable provisions of Section 31.08(e) still within the scope of the previous original project for any aspect of the project regulated under the Planning Code, and does not introduce a new use not previously included in the project, the Environmental Review Officer shall note this determination in writing in the case record and no further evaluation shall be required by this Chapter. The Planning Department shall post a notice of the determination in the offices of the Planning Department and on the Planning Department website, and mail such notice to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individuals or organizations who have previously requested such notice in writing.

(2) If the Environmental Review Officer determines that the project as modified is no longer within exceeds the scope of the previous original project for any aspect of the project regulated under the Planning Code, or introduces a new use not previously included in the project, the Environmental Review Officer shall issue a new CEQA decision.
(1)(A) If the modified project is again determined to be excluded or categorically exempt, no further evaluation shall be required by the Environmental Review Officer shall issue a new exemption determination in accordance with this Chapter.

(2)(B) If the Environmental Review Officer determines that the modified project is determined not to be excluded or categorically exempt, an initial study shall be conducted as provided in this Chapter.

(3)(C) The Planning Department may issue guidance to other City departments in determining the type of project modification that might occur after an Approval Action that would require additional CEQA review. The guidance may also advise on the process and considerations that the Planning Department would use in such cases to determine whether to issue a new exemption determination or undertake further environmental review.

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Section 3. The Administrative Code Chapter 31 is hereby amended by deleting Section 31.16 in its entirety and adding new Section 31.16 to read as follows:

SEC. 31.16. APPEAL OF FINAL ENVIRONMENTAL IMPACT REPORTS.

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

(1) A letter of appeal shall be submitted to the Clerk of the Board within twenty (20) calendar days after the Planning Commission's certification of the EIR, stating the specific grounds for appeal, and accompanied by a fee, as set forth in Section 31.22 herein, payable to the Clerk of the Board. The grounds for appeal shall be limited to issues related to the adequacy, accuracy and objectiveness of the final EIR, including but not limited to the sufficiency of the final EIR as an
informational document and the correctness of its conclusions, and the correctness of the findings contained in the Planning Commission's certification of the EIR. The appellant shall submit a copy of the letter of appeal to the Environmental Review Officer at the time appellant submits a letter of appeal to the Clerk of the Board.

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

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

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

(c) The Board shall conduct its own independent review of the final EIR. The Board shall consider anew all facts, evidence and/or issues related to the adequacy, accuracy and objectiveness of the final EIR, including but not limited to the sufficiency of the final EIR as an informational document and the correctness of its conclusions, and the Planning Commission's certification of the EIR. The Board may consider new facts, evidence and/or issues that were not introduced before the Planning Commission or the Environmental Review Officer.

(d) The Board shall affirm the Planning Commission's certification of the final EIR only if the Board finds that the final EIR is adequate, accurate and objective, that its conclusions are correct,
and that the findings contained in the Planning Commission’s certification are correct. The Board may affirm or reverse the action of the Planning Commission only by a vote of a majority of all members of the Board. If the Board reverses the Planning Commission’s certification of the final EIR, it shall make specific findings and remand the final EIR to the Planning Commission for further action consistent with the Board’s findings. The Board shall act by motion in affirming or reversing the Planning Commission’s certification of the final EIR.

(e) The Board shall act on an appeal within thirty (30) days of appeal of the Planning Commission’s certification of the EIR, provided that, if the full membership of the Board is not present on the last day on which said appeal is set or continued for hearing within such 30 days, the Board may postpone said hearing and decision thereon until, but not later than, the full membership of the Board is present; provided further, that the latest date to which said hearing and decision may be so postponed shall be not more than ninety (90) days from the date of filing the appeal. The date of certification of the final EIR shall be the date upon which the Planning Commission originally certified the final EIR if: (i) no appeal is filed; or (ii) an appeal is filed and the Planning Commission’s certification of the final EIR is affirmed by action of the Board.

(f) In the event the Board remands an EIR to the Planning Commission, the Planning Commission shall take such action as may be required by the specific findings made by the Board and consider re-certification of the EIR. In the event the EIR is re-certified by the Planning Commission, only the portions of the EIR which have been revised, or the new issues which have been addressed, by the Planning Commission may be appealed again to the Board pursuant to the procedures set forth herein.

(g) The Board may reject an appeal if it finds that the appeal fails to state proper grounds for appeal. The Board shall act by motion in rejecting an appeal.

SEC. 31.16. APPEAL OF CERTAIN CEQA DECISIONS.
(a) **Decisions Subject to Appeal.** In accordance with the provisions set forth in this Section 31.16, the following CEQA decisions may be appealed to the Board of Supervisors (the “Board”)

where the Board is not otherwise the CEQA decision-making body for the project as provided below in Section 31.16(b): (1) certification of a final EIR by the Planning Commission; (2) adoption of a negative declaration by the first decision-making body; and (3) determination by the Planning Department or any other authorized City department that a project is exempt from CEQA.

(b) **Board as CEQA Decision-Making Body.**

(1) CEQA decisions are not appealable to the Board if the Board is the CEQA decision-making body for the project because the Board of Supervisors must affirm the CEQA decision of the Planning Commission or the Planning Department, prior to or as part of its approval of the project.

(2) For purposes of this Chapter 31, the Board is the CEQA decision-making body for the project if any of the following circumstances apply:

(A) At the time an appeal is filed, the Board has affirmed the CEQA decision rendered by a non-elected body of the City and approved the project;

(B) One or more proposed approval actions for the project are pending before the Board of Supervisors prior to the expiration of the time frames set forth in Sections 31.16 (d), (e), or (f), as applicable, for filing the appeal; or

(C) The Planning Department prepared the CEQA decision in support of a proposed ordinance.

(3) For any project for which the Board is the CEQA decision-making body as defined by this Section 31.16, any person may raise objections to the CEQA decision in writing prior to or at a public hearing on the project held by the Board or a committee of the Board. The Board shall consider any written or oral objections raised prior to the close of the public hearing on the project. Procedures for the submittal of materials to the Board by the
public or the preparation of a response by the Planning Department to any objections raised shall be as set forth by the Board in its Rules of Order, provided, however, that before the Board takes action to approve the project, the Board shall provide the Planning Department with an adequate opportunity to submit a written response to any objections to the CEQA decision raised by the public prior to the close of the public hearing.

(4) For any project for which the Board is the CEQA decision-making body as defined by this Section 31.16, prior to or as part of its consideration of the project, the Board shall affirm or reject the CEQA decision for the project rendered by the Planning Commission or the Planning Department.

(b) Appeal Procedures. In addition to the applicable requirements of Section 31.16 (d) (c), pertaining to EIRs, Section 31.16 (e) (d) pertaining to negative declarations or Section 31.16 (f) (e) pertaining to exemption determinations, the following requirements shall apply to an appeal of any of the decisions listed in Section 31.16 (a).

(1) The appellant shall submit a letter of appeal along with all written materials in support of the appeal to the Clerk of the Board within the time frames set forth in Sections 31.16 (c), (d), or (e), or (f), as applicable. The letter of appeal shall state the specific grounds for appeal, and shall be accompanied by a fee, as set forth in Section 31.22 of this Chapter, payable to the San Francisco Planning Department. The appellant shall sign the letter of appeal, or may have an agent authorized in writing, file an appeal on his or her behalf. The appellant shall submit with the appeal a copy of the CEQA decision being appealed, if available, and otherwise shall submit it when available EIR certification or the negative declaration approval by the Planning Commission, or a copy of the exemption determination by the Planning Department that is being appealed and a copy of the Approval Action taken for the project by a City board, commission, department or official. The appellant shall submit a copy of the letter of appeal and all any other written materials submitted to the Clerk in support of the appeal to the Environmental Review Officer at the time
appellant submits the letter of appeal to the Clerk of the Board. The submission to the Environmental Review Officer may be made by electronic means. The Clerk of the Board shall have three business days from the time of submittal of the appeal to assess the appeal package for completeness and compliance with this subpart. If complete and compliant with this subpart, the Clerk shall process the appeal within the time limits from provisional acceptance. An appeal shall be accepted by the Clerk with notice given to the appellants that the acceptance is conditioned upon the Planning Department determining that the appeal of the CEQA decision, whether rendered by the Planning Department or another City commission, department, agency or official, has been filed in a timely manner, and the Clerk otherwise determining that the appeal complies with the requirements of this section. The Planning Department shall make such determination within three working days of receiving the Clerk's request for review. Within seven working days of the filing of the appeal the Clerk shall mail notice to the appellants of the acceptance or rejection of the appeal. The Clerk of the Board may reject an appeal if appellant fails to comply with this Section 31.16(e)(b)(1).

(2) After receipt of the letter of appeal, the Environmental Review Officer shall promptly transmit copies of the environmental review document no later than 11 days prior to the scheduled hearing to the Clerk of the Board and make the administrative record available to the Board.

(3) For projects that require multiple City approvals, after the Clerk has scheduled the appeal for hearing while the appeal is pending, and until the CEQA determination decision is affirmed by the Board, (A) the Board may not take action to approve the project but may hold hearings on the project and pass any pending approvals out of committee without a recommendation for the purpose of consolidating project approvals and the CEQA appeal before the full Board, and (B) other City boards, commissions, departments and officials shall not carry out or consider further the approval of the project that is the subject of the CEQA determination decision on appeal but shall not undertake activities to implement the
project that physically change the environment except activities that are essential to abate hazards to the public health and safety, including abatement of hazards on a structure or site determined by the appropriate City official, including but not limited to the Director of Building Inspection, the Director of Public Works, the Director of Public Health, the Fire Marshal or the Port Chief Engineer, to be an emergency presenting an imminent hazard to the public and requiring immediate action.

(4) The Clerk of the Board shall schedule a hearing on the appeal before the full Board or as otherwise provided by the Board in its Rules of Order. The Clerk shall schedule the hearing no less than 30 and no less than 30-21 and no more than 45 days following expiration of the time frames set forth in Sections 31.16(c), (d), or (e), or (f), as applicable, for filing an appeal. The Planning Department shall assist the Clerk in determining when the time period for filing an appeal of a particular project has expired. If more than one person submits a letter of appeal, the Board President may consolidate such appeals so that they are heard simultaneously. The Clerk shall provide notice of the appeal by mail to the appellant or appellants and to all organizations and individuals who previously have requested such notice in writing. The Clerk shall provide such notice no less than 14 days prior to the date the appeal is scheduled to be heard by the Board. The Planning Department shall provide to the Clerk of the Board the list of individuals and organizations that have commented on the decision or determination in a timely manner, or requested notice of an appeal, no less than 20 days prior to the scheduled hearing.

(5) Members of the public, appellant and real parties in interest or City agencies sponsoring the proposed project may submit written materials to the Clerk of the Board no later than noon, 11 days prior to the scheduled hearing. The Planning Department shall submit to the Clerk of the Board a written response to the appeal no later than noon, eight days prior to the scheduled hearing. Appellant may submit a written reply to any new information included in the Planning Department response, provided that Appellant delivers a copy of such reply to the Clerk of the Board, each individual Board member, and the Planning Department no later
than noon, five days prior to the scheduled hearing. Any written document submitted after these deadlines shall not be distributed to the Supervisors as part of their hearing materials. The Clerk will distribute any written document submitted by these deadlines noon, eight days prior to the scheduled hearing to the Board through the Board’s normal distribution procedures, and such written materials will be part of the record. Written materials submitted later than noon, eight days prior to the scheduled hearing, other than any Appellant reply submitted in compliance with the provisions of this section 31.16(b)(5) and Planning Department responses to the appeal, will not be considered part of the record unless five Board members agree each submits a formal request in writing to the Clerk of the Board, on official letterhead, with the Board member’s original signature, at the appeal hearing or before, subject to the Board’s Rules of Order, to include such written materials in the official file and considered as part of the record.

(6) The Board shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions.

(7) The Board shall act on an appeal within 30 days of the date scheduled for the hearing, provided that if the full membership of the Board is not present on the last day on which the appeal is set for a decision within said 30 days, the Board may postpone a decision thereon until, but not later than, the full membership of the Board is present; and provided further, if the Board of Supervisors does not conduct at least three regular Board meetings during such 30 day period, the Board of Supervisors shall decide such appeal within 40 days of the time set for the hearing thereon or at the next regularly scheduled Board meeting should such deadline fall within a Board recess; and provided further that the latest date to which said decision may be so postponed under this
Section shall be not more than 90 days from the expiration of the time frames set forth in Sections 31.16 (c), (d), (e), or (f), as applicable, for filing an appeal.

(8) The Board may affirm or reverse the any CEQA decision of the Planning Commission, Planning Department or other authorized City agency by a vote of a majority of all members of the Board. A tie vote shall be deemed to be disapproval of the CEQA decision. The Board shall act by motion. The Board shall adopt findings in support of its decision, which may include adoption or incorporation of findings made by the Planning Commission, Environmental Review Officer or other City department authorized to act on the CEQA decision below. If the Board reverses the CEQA decision, the Board shall adopt specific findings setting forth the reasons for its decision.

(9) If the Board affirms the CEQA decision, the date of the final EIR, the final negative declaration, or final exemption determination shall be the date upon which the Planning Commission, Planning Department, Environmental Review Officer or other authorized City department, as applicable, first approved, certified the EIR or adopted the negative declaration or issued the exemption determination and any actions approving the project made prior to the appeal decision shall be deemed valid.

(10) If the Board reverses the CEQA decision, the prior CEQA decision and any actions approving the project, including, but not limited to, any approvals of the project granted during the pendency of the appeal, in reliance on the reversed CEQA decision, shall be deemed void.

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

(d)(c) Appeal of Environmental Impact Reports. In addition to those requirements set forth in Section 31.16(c)(b) above, the following requirements shall apply only to appeals of EIRs.
(1) Any person or entity that has submitted comments to the Planning Commission or the Environmental Review Officer on a draft EIR, either in writing during the public review period, or orally or in writing at a public hearing on the EIR, may appeal the Planning Commission’s certification of the final EIR.

(2) The appellant of a final EIR shall submit a letter of appeal and written materials in support of the appeal to the Clerk of the Board after the Planning Commission certifies the final EIR as complete and no later than within 30 days after the Approval Action for the project following the Planning Commission’s certification of the EIR.

(3) The grounds for appeal of an EIR shall be limited to whether the EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.

(4) The Board shall affirm the Planning Commission’s certification of the final EIR if the Board finds that the final EIR complies with CEQA, including that it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and that the Planning Commission certification findings are correct.

(5) The Board shall reverse the Planning Commission’s certification of the EIR if the Board finds that the EIR does not comply with CEQA, including that it is not adequate, accurate and objective, is not sufficient as an informational document, that its conclusions are incorrect or it does not reflect the independent judgment and analysis of the City, or that the Planning Commission certification findings are incorrect. If the Board reverses the Planning Commission’s certification of the final EIR, it shall remand the final EIR to the Planning Commission for further action consistent with the Board’s findings. Any further appeals of the EIR shall be limited only to the portions of the EIR that the Planning Commission has revised and any appellant shall have commented.
on the revised EIR at or before a public hearing held on the revised EIR or the project, if any. The Board’s subsequent review, if any, also shall be limited to the portions of the EIR that the Planning Commission has revised including, without limitation, new issues that have been addressed. Any additional appeals to the Board shall comply with the procedures set forth in this Section 31.16.

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

(1) Any person or entity that has filed an appeal of the preliminary negative declaration with the Planning Commission during the public comment period provided by this Chapter for filing comments on the preliminary negative declaration may appeal the Planning Commission’s approval of the final negative declaration.

(2) The appellant of a negative declaration shall submit a letter of appeal to the Clerk of the Board after the Planning Commission approves the final negative declaration and within 30 days after the Date of the Approval Action for the project taken in reliance on the negative declaration.

(3) The grounds for appeal of a negative declaration shall be limited to whether, in light of the whole record before the Board, the negative declaration conforms to the requirements of CEQA and there is no substantial evidence to support a fair argument that the project may have a significant effect on the environment, including and in the case of a mitigated negative declaration, the adequacy and feasibility of the mitigation measures.

(4) The Board shall affirm the Planning Commission approval of the negative declaration if it finds that the negative declaration conforms to the requirements of CEQA and that the record does not include substantial evidence to support a fair argument that the project could not have a significant effect on the environment.

(5) The Board shall reverse the Planning Commission approval of the negative declaration if it finds that the negative declaration does not conform to the requirements of CEQA or
there is substantial evidence to support a fair argument that the project may have a significant effect on the environment that has not been avoided or mitigated to a less than significant level by mitigation measures or project modifications agreed to by the project sponsor or incorporated into the project. If the Board reverses the decision of the Planning Commission, it shall remand the negative declaration to the Planning Department for further action consistent with the Board’s findings.

(A) In the event the Board remands the negative declaration to the Planning Department for revision, the Environmental Review Officer shall finalize the revised negative declaration and send notice to the public, as set forth in Section 31.11 of this Chapter, of the availability of the revised negative declaration. No appeal to the Planning Commission of the revised negative declaration shall be required. In the event an organization or individual wishes to appeal the revised negative declaration, such appeal shall be made directly to the Board of Supervisors within 30 days of publication of the revised negative declaration and shall comply with the procedures set forth in this Section 31.16. The Board’s subsequent review, if any, shall be limited to the portions of the negative declaration that the Planning Department has revised.

(B) In the event the Board determines that a project may have a significant effect on the environment that cannot be avoided or mitigated to a less than significant level and, therefore, an EIR is required, the Planning Department shall prepare an EIR in accordance with CEQA and this Chapter 31. Any subsequent appeal to the Board shall comply with the procedures set forth in this Section 31.16.

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

(1) Any person or entity may appeal the exemption determination by the Planning Department or other authorized City department to the Board.
(2) The appellant of an exemption determination shall submit a letter of appeal and written materials in support of the appeal to the Clerk of the Board within the following time frames as applicable:

(A) For a private project seeking a permit, license or other entitlement for use for which the City otherwise provides an appeal process for the entitlement, the appeal of an exemption determination shall be filed after the Planning Department issues the exemption determination and within 30 days after the Date of the Approval Action, regardless of whether the Approval Action is subject to a shorter appeal period. Departments that issue permits or entitlements supported by exemption determinations shall take steps as they determine appropriate to advise applicants seeking permits, licenses or other entitlements for use of the 30-day appeal period for the exemption determination.

(B) For all projects not covered by Section (A):

(i) If the Approval Action is taken following a noticed public hearing as provided for in Section 31.08(f) of this Chapter, the appeal of an exemption determination shall be filed after the Planning Department issues the exemption determination and within 30 days after the Date of the Approval Action.

(ii) If the Approval Action is taken without a noticed public hearing as provided for in Section 31.08(f) of this Chapter, the appeal of an exemption determination shall be filed after the Planning Department issues the exemption determination and an approval of the project in reliance on the exemption determination, and within 30 days after the first date the Planning Department posts on the Planning Department’s website a notice as provided in Section 31.08(g) of this Chapter.

(C) As to an exemption determination for a project for which no City entity posted the exemption determination on the City’s website or otherwise provided public...
notice of the exemption determination under this Chapter 31, an appeal may be filed within 30
days following the appellant's discovery of the exemption determination.

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

(4) The Board shall affirm the exemption determination if it finds that the project
conforms to the requirements set forth in CEQA for an exemption.

(5) The Board shall reverse the exemption determination if it finds that the project
does not conform to the requirements set forth in CEQA for an exemption. If the Board finds that the
project does not conform to the requirements set forth in CEQA for an exemption, the Board shall
remand the exemption determination to the Planning Department for further action consistent with the
Board's findings. In the event the Board reverses the exemption determination of any City department
other than the Planning Department, the exemption determination shall be remanded to the Planning
Department, and not the City department making the original exemption determination, for
consideration of the exemption determination in accordance with the Board's directions.

Section 4. As stated in San Francisco Administrative Code, Chapter 31, the purpose
of Chapter 31 is to provide procedures for San Francisco to carry out its responsibilities as a
lead agency under the California Environmental Quality Act ("CEQA"), a State statute that has
played a key role in protecting the environment. As stated in Chapter 31, Section 31.01,
CEQA provides for the orderly evaluation of projects and preparation of environmental
documents, and requires adoption of corresponding objectives, criteria and procedures by
local agencies. By adopting this ordinance, the Board of Supervisors intends to reaffirm the
policies and objectives stated in Chapter 31, Section 31.02, including without limitation,
providing decision makers and the public with meaningful information regarding the
environmental consequences of proposed activities, identifying ways that environmental
damage can be avoided or significantly reduced, providing public input in the environmental
review process, bringing environmental considerations to bear at an early stage in the
planning process, avoiding unnecessary delays or undue complexity of review and providing
procedural direction on implementation of CEQA by the City. Nothing in this ordinance is
intended to change the policies and objectives of CEQA, to limit any rights of appeal provided
to the public under CEQA, or to limit the authority of the San Francisco Board of Supervisors
or the San Francisco Planning Commission to hear and decide CEQA appeals as provided in
this Chapter.

Section 45. Effective Date. This ordinance shall become effective 30 days from the
date of passage.

Section 6. Operative Date. This ordinance shall become operative on the later date of
September 1, 2013, or five business days after the Secretary of the Planning Commission
provides a memorandum to the Clerk of the Board of Supervisors advising that the Planning
Commission has held a public hearing at which 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.

Section 57. This section is uncodified. In enacting this Ordinance, the Board intends to
amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
punctuation, charts, diagrams, or any other constituent part of the Administrative Code that
are explicitly shown in this legislation as additions, deletions, Board amendment additions,
and Board amendment deletions in accordance with the "Note" that appears under the official
title of the legislation.

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

By:

ELAINE C. WARREN
Deputy City Attorney

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