

ORIGINAL

ORDINANCE NO. 10952 NOV 14 1972
(New Series)

AN ORDINANCE AMENDING CHAPTER VI OF THE SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 9, DIVISIONS 1, 2 AND 3, SECTIONS 69.0101 THROUGH 69.0107, 69.0201 THROUGH 69.0204 AND 69.0301 THROUGH 69.0314 ESTABLISHING AN ENVIRONMENTAL IMPACT REPORT PROCEDURAL ORDINANCE; AMENDING CHAPTER II, ARTICLE 2, SECTION 22.1301 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING THERETO THE ENVIRONMENTAL QUALITY DEPARTMENT; AMENDING CHAPTER II, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 22, SECTIONS 22.2201 AND 22.2202 RELATING TO THE ENVIRONMENTAL QUALITY DEPARTMENT; AMENDING ORDINANCE NO. 10845 (NEW SERIES), AS AMENDED, OF THE ORDINANCES OF THE CITY OF SAN DIEGO ENTITLED "AN ORDINANCE ESTABLISHING A SCHEDULE OF COMPENSATION FOR OFFICERS AND EMPLOYEES OF THE CITY OF SAN DIEGO FOR THE FISCAL YEAR 1972-73" BY AMENDING EXHIBIT C THERETO CREATING THE UNCLASSIFIED POSITIONS OF DIRECTOR OF ENVIRONMENTAL QUALITY AND ASSISTANT DIRECTOR OF ENVIRONMENTAL QUALITY AND ESTABLISHING A SCHEDULE OF COMPENSATION THEREFOR; AMENDING ORDINANCE NO. 10873 (NEW SERIES), AS AMENDED, OF THE ORDINANCES OF THE CITY OF SAN DIEGO ENTITLED "AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR 1972-73 AND APPROPRIATING THE NECESSARY MONEY TO OPERATE THE CITY OF SAN DIEGO FOR SAID FISCAL YEAR" BY ADDING THERETO WITHIN THE GENERAL FUND 100 AN ENVIRONMENTAL QUALITY DEPARTMENT, AUTHORIZING PERSONNEL POSITIONS AND FUNDING; AUTHORIZING AND DIRECTING THE CITY AUDITOR AND COMPTROLLER TO REDUCE THE UNALLOCATED RESERVE (53.30) IN THE AMOUNT OF \$98,922.00, ESTABLISH APPROPRIATE ACCOUNTING FOR THE ENVIRONMENTAL QUALITY DEPARTMENT AND TRANSFER SAID \$98,922.00 TO THE ENVIRONMENTAL QUALITY DEPARTMENT FOR THE PURPOSE OF PROVIDING FUNDS FOR OPERATION OF SAID DEPARTMENT FOR REMAINDER OF FISCAL YEAR 1973.

PREAMBLE

WHEREAS, the State of California has declared its policy to be the development and maintenance of a high-quality environment now and in the future and to take all action necessary to protect, rehabilitate and enhance the environmental quality of the State; and

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WHEREAS, in order to achieve that objective the state has enacted the California Environmental Quality Act of 1970 which requires governmental agencies at all levels to develop standards and procedures necessary to protect the environmental quality of the state; and

WHEREAS, in furtherance of that requirement the Environmental Quality Act requires local governmental entities to make Environmental Impact Reports on any project they intend to carry out which may have a significant effect on the environment; and

WHEREAS, in construing the 1970 Act the California Supreme Court in Friends of Mammoth, et al. v. Board of Supervisors of Mono County, et al., Sac. 7924, filed September 21, 1972, has ruled that it also applies to those private projects and developments deemed to have a significant effect on the environment for which a government permit or other entitlement for use is necessary; and

WHEREAS, prior to said Friends of Mammoth decision, it was assumed by all California municipalities and state agencies that the Environmental Quality Act applied only to public projects and developments and did not purport to include private development; and

WHEREAS, The City of San Diego, at the time of the decision's filing and presently, has numerous applications and requests from private individuals, corporate and otherwise, for permits and other entitlements of use for which no

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procedures have been established with which Environmental Impact Reports may be expeditiously and adequately processed; and

WHEREAS, the sum total and effect of the above Mammoth decision has had a devastating impact on The City of San Diego as well as all other California governmental entities and has created the need to establish appropriate procedures and criteria for the submission and review of Environmental Impact Reports; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. The Municipal Code of The City of San Diego be and it is hereby amended by adding Article 9 to Chapter VI entitled "Environmental Impact Report Procedural Ordinance" consisting of three divisions as follows:

ARTICLE 9

ENVIRONMENTAL IMPACT REPORT
PROCEDURAL ORDINANCE

DIVISION 1

GENERAL

SEC. 69.0101 PURPOSE AND INTENT

As a result of the decision entitled Friends of Mammoth, et al. v. Board of Supervisors of Mono County,

et al., Sac. 7924, and its interpretation of the Environmental Quality Act of 1970, it now appears that public agencies such as The City of San Diego are under an obligation to protect the interest of the public in securing, maintaining, preserving and protecting the environment. To that end, this ordinance is promulgated for the purpose of establishing guidelines, criteria and procedures for the preparation, submission and review of Environmental Impact Reports on those public and private projects requiring governmental authorization which may have a significant effect on the environment. In addition, it is also necessary to establish standards in determining whether a particular project may or may not have a significant or nontrivial effect on the environment.

It is the further intent and purpose of this ordinance to provide appropriate interim procedural methods to facilitate the review and disposition of those private projects which may have a significant effect on the environment that had been initiated prior to the time the California Supreme Court rendered its decision in the aforementioned Mammoth case.

SEC. 69.0102 CITATION OF ORDINANCE

This article may be cited as the Environmental Impact Report Procedural Ordinance.

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SEC. 69.0103 DEFINITIONS

Whenever the following words are used in this ordinance, unless otherwise defined, they shall have the meaning ascribed to them in this section.

- a. Activity or Activities - shall be construed to apply to any construction work or grading and shall not be limited to public works construction;
- b. Applicant - shall mean any person, corporate or otherwise, public or private, who has requested the City's permission to perform or carry out some project, activity, development or change in zone which may have a significant effect on the environment;
- c. Development - shall mean any private project such as subdivisions, planned residential developments and the like;
- d. Environment - refers to the totality of man's surroundings, both social and physical, natural and man-made. It includes human, plant and animal communities and the forces acting upon them;
- e. Environmental Assessment (EA) - a formal evaluation statement, prepared by a private enterprise or City department originating a project, to determine whether the proposed project will have a significant effect on the environment;
- f. Environmental Impact Analysis (EIA) - a written report analyzing the environmental effects,

Such report shall contain those items required by Section 69.0306 of this ordinance;

g. Environmental Impact Report (EIR) - shall mean a detailed statement setting forth those matters specified in Section 69.0306 of this ordinance;

h. Interested Person - shall mean any person concerned about a project or report on a project and includes individual citizens, citizen groups, public agencies, City departments or the applicant;

i. Negative Declaration (ND) - is a written determination indicating that the particular project or activity shall not have a significant effect on the environment;

j. Ordinance - shall mean Article 9 of Chapter VI of the San Diego Municipal Code;

k. Project - shall refer to both public and private activities and shall include but not be limited to the following:

(1) Activities directly undertaken by The City of San Diego;

(2) Activities supported in whole or in part through City contracts, grants, subsidies, loans or other forms of assistance;

(3) Activities involving a City lease, permit, license or other entitlement for use not including changes of zone;

l. Significant effect on the environment - shall be interpreted broadly and shall mean any effect other than trivial which:

(1) Degrades or enhances the quality of the environment;

(2) Curtails the range of beneficial uses of the environment;

(3) Serves short-term, to the disadvantage of long-term, environmental or utilitarian goals;

"Significant effect" includes both beneficial and detrimental effects, and also environmental consequences of both primary and secondary natures. The determination of whether a particular project may have a significant effect on the environment, thus requiring the filing of an Environmental Impact Report, shall be made in accordance with those procedures set forth in Division 3 of this ordinance.

SEC. 69.0104 NECESSARY AND CONVENIENT PROCEDURE AUTHORIZED

Any procedure not expressly set forth in this ordinance but deemed necessary or convenient to carry out any of its purposes or the purposes of the Environmental Quality Act of 1970 is authorized.

SEC. 69.0105 SEVERABILITY CLAUSE

If any section or part of this ordinance be for any reason held unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of this ordinance, but such remaining portions shall be and remain in full force and effect.

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SEC. 69.0106 AMENDMENT PROVISION

At such time as the full intent and meaning of the Supreme Court's decision in the Friends of Mammoth decision is made known, either by judicial or legislative interpretation, this ordinance may be amended or modified in whole or in part to conform to such interpretation.

SEC. 69.0107 CONSTRUCTION

This ordinance shall be liberally construed.

DIVISION 2

INTERIM GUIDELINES AND PROCEDURES
FOR PRE-SEPTEMBER 21, 1972 PRIVATE PROJECTS

SEC. 69.0201 APPLICATIONS ON OR BEFORE SEPTEMBER 21,
1972

On all applications for permits, leases or other entitlements for use of whatever nature which are a part of a development or project for which application was filed on or before September 21, 1972, the applicant may submit a Negative Declaration (a written statement in triplicate by the applicant certifying that the net long-term effect of his particular project or development shall not have a significant effect on the environment) to the City's Environmental Quality Department. Upon receipt of a Negative Declaration, the Environmental Quality Department shall file it with the City's Planning Commission. In the alternative, if a Negative Declaration cannot be made by applicant, he shall be required to conform to Sections 69.0301 through 69.0314.

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SEC. 69.0202 NOTICE

Notice of the filing of the Negative Declaration shall be published in the City's official newspaper. Such publication shall be for one time and shall be accomplished by the City Clerk. The notice shall specifically include a general description of the project or development, the applicant's name, the project's location, the date and filing of the Negative Declaration, and a reference to this ordinance for appeal procedures.

SEC. 69.0203 APPEALS

Any interested person as defined herein may appeal within fourteen (14) days from the date of publication of notice of the filing of a Negative Declaration with the Planning Commission. Such appeal shall be made to the Environmental Appeals Board which may take whatever action it deems necessary and which is consistent with those powers enumerated in Section 69.0311. If at the end of the fourteen-day period no appeal has been taken, the Negative Declaration as filed shall become final and the permit or other similar entitlement may be issued.

SEC. 69.0204 APPLICATION

Provisions of Division 2 shall apply to those permits or other similar entitlements not exempted by Section 69.0302. In addition, said Division 2 shall not apply to those applications for permits and the like which were made after September 21, 1972. Those applicants

submitting their applications or seeking major modifications of their original projects subsequent to that date shall be required to comply with those requirements set forth in Division 3.

DIVISION 3

PROCEDURES FOR PREPARATION AND REVIEW OF ENVIRONMENTAL IMPACT REPORTS

SEC. 69.0301 ENVIRONMENTAL IMPACT REPORTS REQUIRED: PUBLIC AND PRIVATE PROJECTS

The City of San Diego shall not authorize, approve, issue or allow any activity, project, development or changes in zone to be carried out which may have a significant or nontrivial effect on the environment unless an Environmental Impact Report has first been filed and reviewed by the City pursuant to this ordinance. If the City finds and determines that a proposed activity, project, development or change in zone will not have a significant effect on the environment, a report shall not be required. The determination of environmental significance shall be made pursuant to the objectives, criteria, standards and procedures established by this ordinance and in addition those promulgated and established by City Council resolution.

SEC. 69.0302 EXEMPTIONS

The Council of The City of San Diego finds and determines that certain activities, projects, development or changes in zone do not have a significant impact on the environment, and the following are therefore exempted from the provisions of this ordinance:

a. Public

(1) City contracts for public works projects which do not exceed \$20,000.

(2) City contracts for the purchase of supplies and materials.

(3) City contracts for repair or maintenance of public structures or improvements.

(4) The acquisition or disposition by lease or otherwise of City-owned real property with a fair market value of \$20,000 or less.

b. Private

(1) Permits for the repair, maintenance or alteration of existing single-family residential structures.

(2) Permits for the construction of new detached single-family residential structures to be built in existing urbanized areas, provided that the owner of the lot upon which construction is to occur owns no contiguous undeveloped property.

(3) Permits for the construction of new detached two-family residential structures to be built in existing urbanized areas, provided that the owner of the lot upon which construction is to occur owns no contiguous undeveloped property.

(4) Permits for repair, interior or minor exterior alteration of multifamily residential, commercial, industrial or institutional structures.

(5) Permits for any activity in connection with any project or development where an Environmental Impact Report in accordance with this ordinance has been filed within four (4) years of the application therefor.

(6) Permits for the repair or minor alterations to an existing mobile home park or an existing owner-occupied mobile home.

(7) Encroachment permits not requiring City Council authorization.

(8) Applications for a change in zone within any of the following categories of zones where a subdivision is not involved:

- (a) Agricultural;
- (b) Single-family residential;
- (c) Multiple residential;
- (d) Commercial;
- (e) Manufacturing.

The intent of this paragraph is to require Environmental Impact Reports in connection with any application for a change of zone from one of the categories above to another. Thus an application for rezoning from R-1-20 to R-1-5 would not require an Environmental Impact Report if a subdivision map is not involved, but R-1-5 to R-2, R-3 or R-4 would, or from R-3 to CO or M-1A would.

(9) Permits for the construction or repair of fences of whatever nature, retaining walls six (6) feet or less in height, and residential accessory structures such as private patio structures, private swimming pools and detached private garages.

(10) Parcel maps not involving the installation of public improvements or private development.

(11) Any other permits which are incidental to any project listed in subparagraphs (1) through (10) of this section.

All other permits, licenses, leases, other entitlements for use, authorizations or approvals of whatever nature are subject to the requirements of this ordinance. The City Council may by resolution exempt other classes or categories of construction or development from the provisions of this ordinance if the Council determines that said classes or categories of construction or development have a trivial or insignificant effect on the environment. Adoption of such a resolution shall be done at a public hearing before the Council, notice of which shall have been published once in the City's official newspaper at least fourteen (14) days prior to said hearing.

SEC. 69.0303 APPLICATION

Prior to the issuance of any permit, approval, authorization or other entitlement subject to the

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provisions of this ordinance, the applicant or appropriate City department shall prepare and submit an Environmental Assessment to the Environmental Quality Director for his review and determination as to the environmental significance of the proposed project or activity.

SEC. 69.0304 REVIEW BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT

The Director of the Environmental Quality Department, hereinafter referred to as the "Director," and his staff shall review the Environmental Assessment along with the plans for the proposed project to determine if the project as constructed in the proposed location may have a significant effect on the environment. The Director shall, if practical or feasible and if available, solicit the recommendations and viewpoints of all public agencies and departments of the City that may be affected by the proposed project and those private persons and organizations which have expressed interest in the environmental impact of the proposed project. Said determination shall be made within twenty-one (21) days of the date upon which he receives the assessment and plans for the proposed project.

The City Council shall by resolution establish objectives, criteria, standards and procedures which shall guide the Director in the making of said determination. The Director shall also be guided by the public policy and legislative intent set forth in Chapter 1 of the Environmental Quality Act of 1970.

SEC. 69.0305 DETERMINATION BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT THAT PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

If the Director of the Environmental Quality Department determines that the proposed project or activity may have a significant effect on the environment, the approval of a permit or the like shall not be granted until an Environmental Impact Report on said project has been prepared, filed with the Planning Commission, and has become final. In the preparation of the report, the Director may require the applicant or originating department to submit an Environmental Impact Analysis and whatever other information he deems necessary in order to adequately evaluate the environmental consequences of the proposed project. In addition, the Director shall, if practical or feasible and if available, solicit the recommendations and viewpoints of all public agencies and departments of the City that may be affected by the proposed project and those private persons and organizations which have expressed interest in the environmental impact of the proposed project. Such viewpoints and contentions shall be set forth in the Environmental Impact Report even if the Director finds no merit in them. The Environmental Impact Report shall contain the opinion of the Director with respect to all such viewpoints and contentions. Notice of the Director's determination shall be transmitted to the applicant or originating department in writing.

SEC. 69.0306 CONTENTS OF THE REPORT

The Environmental Impact Report shall include a detailed statement setting forth the following:

- a. The environmental impact of the proposed project.
- b. Any adverse environmental effects which cannot be avoided if the proposal is implemented.
- c. Mitigation measures proposed to minimize the impact.
- d. Alternatives to the proposed action including no project.
- e. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.
- f. Any irreversible environmental changes which would be involved in the proposed action should it be implemented.
- g. The growth-inducing impact of the proposed action.

SEC. 69.0307 PERMIT FEES

In order to cover the cost and expense of preparing Environmental Impact Reports and Negative Declarations, the City Manager shall prepare and submit to the Council an appropriate fee schedule. Such schedule shall become effective on approval by Council resolution and may be amended similarly by resolution as necessary.

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SEC. 69.0308 DETERMINATION THAT PROJECT HAS TRIVIAL
EFFECT UPON THE ENVIRONMENT

If the Director determines that the proposed project would have a trivial or lesser effect on the environment, then he shall use the Environmental Assessment as a basis for the preparation of a preliminary Negative Declaration. In making this determination, in his review the Director shall, if practical or feasible and if available, solicit comments and views of affected appropriate City departments and interested private citizens and groups. Notice of said determination shall be transmitted in writing, as applicable, either to the originating department or the applicant.

SEC. 69.0309 FILING OF ENVIRONMENTAL IMPACT REPORT
OR NEGATIVE DECLARATION

Regardless of the Director's determination, he shall file, as applicable, either a preliminary Negative Declaration or preliminary Environmental Impact Report with the City's Planning Commission. Notice of such filing shall be published in the City's official newspaper once with a general description of the project, the applicant's name (City department or private individual), the proposed location, and reference to this ordinance for appeal procedures. Such publication shall be accomplished by the City Clerk.

SEC. 69.0310 APPEAL PROCEDURES

Within fourteen (14) days after the date of publication of the notice of the filing of a preliminary Environmental

Impact Report or preliminary Negative Declaration has been filed with the Planning Commission, any interested person may appeal the adequacy of the same to the Environmental Appeals Board. "Interested person" shall include individual citizens, citizens' groups, public agencies, City departments, or the applicant. Such appeal must be in writing and must specify the basis upon which the appeal is being made. The appeal will then be reviewed and acted upon by the Appeals Board. If no appeal is taken within the above time period, the preliminary Environmental Impact Report or Negative Declaration shall become final and shall be transmitted to the appropriate governing or administrative authority for consideration in the decision-making process. No permit or approval shall be granted during the appeal period and if an appeal is filed, no permit or approval shall be granted until such time as the appeal is finally decided by the Appeals Board.

SEC. 69.0311 ENVIRONMENTAL APPEALS BOARD

a. There is hereby created an Environmental Appeals Board which shall consist of five (5) members who shall serve without compensation. The members shall be appointed by the Mayor and confirmed by the Council. Appointments shall be made for two-year terms with the initial appointments to include two (2) appointments for one (1) year ending March 1, 1973, and three (3) appointments for two (2) years

each ending March 1, 1974. Each appointee shall serve until his successor is duly appointed and qualified. Vacancies shall be filled for the unexpired term of the term of the member whose place becomes vacant. The Environmental Appeals Board membership shall include representatives from the following areas: physical and environmental sciences, social sciences, citizens' groups and private developers.

During March of each year the Mayor may designate one member as chairman; however, in the absence of such designation, the Board shall, on or after April 15, select a chairman from among its members.

b. The Board shall adopt such rules and regulations consistent with law for the government of its business and procedures. The Board shall meet not less than once every two (2) weeks.

c. The Board is charged with the following duties:

(1) Reviewing Environmental Impact Reports to determine the sufficiency of such reports when such reports are questioned upon appeal.

(2) Rendering advice on procedures for the preparation and review of Environmental Impact Reports and Negative Declarations to

appropriate agencies of City government.

In carrying out such duties, the Board shall exercise those powers enumerated in Section 69.0312.

SEC. 69.0312 ENVIRONMENTAL APPEALS BOARD PROCEDURES

The Environmental Appeals Board may, upon receipt of a written appeal:

a. Return the Environmental Impact Report or Negative Declaration to the originating department or applicant for further information and clarification. If information provided by the originating department is satisfactory to appellant, the final Environmental Impact Report or Negative Declaration shall be issued upon expiration of the appeals period.

b. If information provided is unsatisfactory to appellant, the preliminary Environmental Impact Report or Negative Declaration is submitted to the Appeals Board for review together with the proposed plans.

c. (1) Upon review, the Appeals Board may modify or revise the Environmental Impact Report or Negative Declaration and in so doing may require the originating department, applicant or the Director to provide all necessary information and data. At such time as the Board is satisfied with the Environmental Impact Report, it shall become final.

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(2) If a Negative Declaration has been filed and such determination is appealed, the Appeals Board may overrule such determination and require that an Environmental Impact Report be made.

(3) Upon review, the Appeals Board may approve the Environmental Impact Report or Negative Declaration as filed, and upon expiration of the appeals period, it shall become final.

In its review, the Board shall restrict itself solely to the question of the sufficiency of the report. Upon final acceptance by the Appeals Board of the Environmental Impact Report or Negative Declaration, such report or declaration shall be submitted to the appropriate governing or administrative authority for consideration in the decision-making process.

SEC. 69.0313 DISAPPROVAL OF PROJECTS

A project or activity requiring an Environmental Impact Report may be disapproved and a City lease, permit, license or other entitlement of use denied if it is determined by the appropriate authority that the project or activity proposed would result in an adverse impact on the environment which is unreasonable in light of the expected benefit, both public and private, to be derived from the project. In determining whether the expected adverse impact on the environment is unreasonable, the

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appropriate authority shall consider whether the public interest in securing, maintaining, preserving and protecting the environment outweighs any possible benefit, public or private, that may be derived from approving the project.

Disapproval of any project may be made at any of the following procedural levels:

- a. Subdivision Review Board in considering a tentative map. Appeals thereafter may be taken pursuant to Section 102.0205.
- b. Zoning Administrator in considering any variance or other matter before him. Appeals thereafter may be taken pursuant to Section 101.0504.
- c. Board of Zoning Appeals on any appeal. Appeals thereafter may be taken pursuant to Section 101.0505.
- d. Planning Commission on any appeal and in considering a Conditional Use Permit, Planned Unit Development or Planned Residential Development. Appeals thereafter may be taken pursuant to Sections 101.0506E and 101.0900G.
- e. City Council on any appeal and in considering approval of any zoning not exempted under Section 69.0302, or any Conditional Use Permit, Planned Unit Development or Planned Residential Development.
- f. Where none of the foregoing procedural levels apply, then the City Council may consider such action on application to it by any interested

person taken within twenty-one (21) days of the filing of any Environmental Impact Report with the Planning Commission or fourteen (14) days after any decision of the Appeals Board is final.

SEC. 69.0314 LIMITATION OF TIME FOR BRINGING
LEGAL ACTION

Any action or proceeding to attack, review, set aside, void or annul any decision of matters listed in this ordinance or concerning any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced within thirty (30) days after the date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations.

Section 2. Chapter II, Article 2, Section 22.1801 of the San Diego Municipal Code be and the same is hereby amended by adding thereto the Environmental Quality Department, said department to be inserted in said section between the departments of Employee Services and Facilities.

Section 3. Chapter II, Article 2, of the San Diego Municipal Code be and the same is hereby amended by adding Division 22, Sections 22.2201 and 22.2202 relating to the Environmental Quality Department to read as follows:

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DIVISION 22

ENVIRONMENTAL QUALITY DEPARTMENT

SEC. 22.2201 ENVIRONMENTAL QUALITY DEPARTMENT

The Environmental Quality Department is a City department. The Director is the administrative head of the department and he shall be appointed by and may be removed by the City Manager.

SEC. 22.2202 POWERS AND DUTIES OF THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT

The Director of the Environmental Quality Department shall be responsible for conducting reviews and making determinations as to the environmental significance of proposed projects or activities under and pursuant to guidelines set forth in appropriate ordinances, regulations, standards and procedures of The City of San Diego.

The department shall conduct those activities, prepare appropriate reports and perform such services as are set forth in and required by the Environmental Impact Report Procedural Ordinance, Chapter VI, Article 9, Section 69.0101 et seq. of the San Diego Municipal Code. Section 4.

1. Ordinance No. 10845 (New Series), as amended, of the ordinances of The City of San Diego entitled "AN ORDINANCE ESTABLISHING A SCHEDULE OF COMPENSATION FOR OFFICERS AND EMPLOYEES OF THE CITY OF SAN DIEGO FOR THE FISCAL YEAR 1972-73" is hereby amended by amending Exhibit C thereto to create and

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establish the unclassified positions of Director of Environmental Quality and Assistant Director of Environmental Quality.

2. As a schedule of compensation for the positions created hereinabove, the following salary ranges of the Table of Executive Salary Ranges established and adopted by Ordinance No. 10845 (New Series), as amended, of the ordinances of said City, are hereby adopted.

| | <u>Salary Range</u> |
|---|---------------------|
| Director of Environmental Quality | C |
| Assistant Director of Environmental Quality | B |

3. The position of Director of Environmental Quality shall be inserted in Exhibit C of Ordinance No. 10845 (New Series), as amended, under the general category of EXECUTIVE, Classification Range Executive III between the positions of Data Processing Director and Human Resources Director.

4. The position of Assistant Director of Environmental Quality shall be inserted in Exhibit C of Ordinance No. 10845 (New Series), as amended, under the general category of EXECUTIVE, Classification Range Executive II between the positions of Assistant City Librarian and Assistant Human Resources Director.

Section 5. That Ordinance No. 10873 (New Series), as amended, entitled "AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR 1972-73 AND APPROPRIATING THE NECESSARY MONEY TO OPERATE THE CITY OF SAN DIEGO FOR SAID FISCAL YEAR," be **01783**

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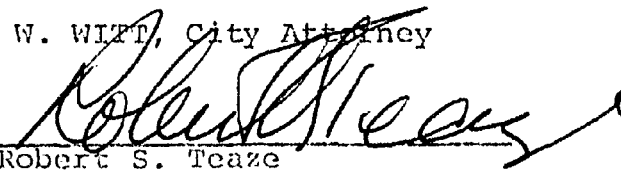
and the same is hereby further amended to add thereto within the General Fund 100 the Environmental Quality Department and to include therein personnel positions and funds for personal services, non-personal expenses and equipment outlay in accordance with the form of Annual Budget Request, Position and Salary Schedule, and supporting documents on file in the office of the City Clerk as Document No. 741919, as follows:

| | |
|-----------------------|-----------------|
| Personal Services | \$72,472.00 |
| Non-Personal Expenses | 21,084.00 |
| Equipment Outlay | <u>5,366.00</u> |
| Total | \$98,922.00 |

Section 6. That the City Auditor and Comptroller be and he is hereby fully authorized and directed to reduce the Unallocated Reserve (53.30) in the amount of \$98,922.00, establish appropriate accounting for the Environmental Quality Department and transfer said sum of \$98,922.00 to the Environmental Quality Departmental accounts to be used solely and exclusively for the purpose of providing funds for the operation of said department for the remainder of fiscal year 1973 as set forth in Section 5 herein.

Section 7. This ordinance shall take effect and be in force on the thirtieth day from and after its adoption.

APPROVED: JOHN W. WITT, City Attorney

By 
Robert S. Teaze
Assistant City Attorney

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RST:DWD:JK:K
Aud.Cert. #4402
10-25-72-10-30-72
11-13-72

CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATION OF UNALLOTTED BALANCE

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount \$ 98,922.00 Fund 100 General Fund Unallocated Res.
Purpose To Transfer from (5330) to the Environmental Quality Dept. (18.00)

[Signature]
Auditor and Comptroller of
The City of San Diego, Calif.

Date October 25, 19 72

By [Signature]

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said moneys now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to exceed \$ _____

Dated _____, 19 _____

Auditor and Comptroller of
The City of San Diego, Calif.

BY _____

Job Order
Resolution No.
Project No. _____

Fund _____ Dept./Activity _____ Object _____

Purpose _____

Vendor _____

10952 NOV 14 1972 CERTIFICATE NO. 4402 01785

Passed and adopted by the Council of The City of San Diego on NOV 14 1972,
 by the following vote:

RECEIVED
 CITY OF SAN DIEGO

1972 NOV 13 PM 4:27
 SAN DIEGO, CALIF.

| Councilmen | Yeas | Nays | Excused | Absent |
|---------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Gil Johnson | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Maureen F. O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Henry L. Landt | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Leon L. Williams | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Floyd L. Morrow | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bob Martinet | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Allen Hitch | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Jim Bates | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Pete Wilson | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

AUTHENTICATED BY: PETE WILSON
 Mayor of The City of San Diego, California.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

(Seal)

By Ann C. Jallott, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 31 1972, and on NOV 14 1972.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

(Seal)

By Ann C. Jallott, Deputy.

MICROFILMED

MAY 5 1978

Office of the City Clerk, San Diego, California

Ordinance Number 10952 Adopted NOV 14 1972

01786

ATTORNEY (S)

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CITY

1972 DL

SANE

*CITY OF SAN DIEGO
202 "C" Street
Community Concourse
San Diego, California 92101

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

ENVIROMENTAL IMPACT

I, Patricia M. Applestill hereby certify that San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; that the

ORDINANCE NO. 10952
(NEW SERIES)

to a true and correct copy of which this certificate is annexed was published in said newspaper on

November 24, 1972

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on

November 24, 1972

Patricia M. Applestill
(Signature)

ORD 10952

103 1/2 "

\$434.20

01787

ORDINANCE NO. 10952
(New Series)

AN ORDINANCE AMENDING CHAPTER VI OF THE SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 9, DIVISIONS 1, 2 AND 3, SECTIONS 69.0101 THROUGH 69.0107, 69.0201 THROUGH 69.0204 AND 69.0301 THROUGH 69.0314 ESTABLISHING AN ENVIRONMENTAL IMPACT REPORT PROCEDURAL ORDINANCE; AMENDING CHAPTER II, ARTICLE 2, SECTION 22.1801 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING THERETO THE ENVIRONMENTAL QUALITY DEPARTMENT; AMENDING CHAPTER II, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 22, SECTIONS 22.2201 AND 22.2202 RELATING TO THE ENVIRONMENTAL QUALITY DEPARTMENT; AMENDING ORDINANCE NO. 10845 (NEW SERIES) AS AMENDED, OF THE ORDINANCES OF THE CITY OF SAN DIEGO ENTITLED "AN ORDINANCE ESTABLISHING A SCHEDULE OF COMPENSATION FOR OFFICERS AND EMPLOYEES OF THE CITY OF SAN DIEGO FOR THE FISCAL YEAR 1972-73" BY AMENDING EXHIBIT C THERETO CREATING THE UNCLASSIFIED POSITIONS OF DIRECTOR OF ENVIRONMENTAL QUALITY AND ASSISTANT DIRECTOR OF ENVIRONMENTAL QUALITY AND ESTABLISHING A SCHEDULE OF COMPENSATION THEREFOR; AMENDING ORDINANCE NO. 10873 (NEW SERIES) AS AMENDED, OF THE ORDINANCES OF THE CITY OF SAN DIEGO ENTITLED "AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR 1972-73 AND APPROPRIATING THE NECESSARY MONEY TO OPERATE THE CITY OF SAN DIEGO FOR SAID FISCAL YEAR" BY ADDING THERETO WITHIN THE GENERAL FUND 100 AN ENVIRONMENTAL QUALITY DEPARTMENT, AUTHORIZING PERSONNEL POSITIONS AND FUNDING; AUTHORIZING AND DIRECTING THE CITY AUDITOR AND COMPTROLLER TO REDUCE THE UNALLOCATED RESERVE (53.30) IN THE AMOUNT OF \$98,922.00, ESTABLISH APPROPRIATE ACCOUNTING FOR THE ENVIRONMENTAL QUALITY DEPARTMENT AND TRANSFER SAID \$98,922.00 TO THE ENVIRONMENTAL QUALITY DEPARTMENT FOR THE PURPOSE OF PROVIDING FUNDS FOR OPERATION OF SAID DEPARTMENT FOR REMAINDER OF FISCAL YEAR 1973.

PREAMBLE

WHEREAS, the State of California has declared its policy to be the development and maintenance of a high-quality environment now and in the future and to take all action necessary to protect, rehabilitate and enhance the environmental quality of the State; and

WHEREAS, in order to achieve that objective the state has enacted the California Environmental Quality Act of 1970 which requires governmental agencies at all levels to develop standards and procedures necessary to protect the environmental quality of the state; and

WHEREAS, in furtherance of that requirement the Environmental Quality Act requires local governmental entities to make Environmental Impact Reports on any project they intend to carry out which may have a significant effect on the environment; and

WHEREAS, in construing the 1970 Act the California Supreme Court in *Friends of Mammoth, et al. v. Board of Supervisors of Mono County, et al.*, Sac. 7924, filed September 21, 1972, has ruled that it also applies to those private projects and developments deemed to have a significant effect on the environment for which a government permit or other entitlement for use is necessary; and

WHEREAS, prior to said *Friends of Mammoth* decision, it was assumed by all California municipalities and state agencies that the Environmental Quality Act applied only to public projects and developments and did not purport to include private development; and

WHEREAS, The City of San Diego, at the time of the decision's filing and presently, has numerous applications and requests from private individuals, corporate and otherwise, for permits and other entitlements of use for which no procedures have been established with which Environmental Impact Reports may be expeditiously and adequately processed; and

WHEREAS, the sum total and effect of the above Mammoth decision has had a devastating impact on The City of San Diego as well as all other California governmental entities and has created the need to establish appropriate procedures and criteria for the submission and review of Environmental Impact Reports; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. The Municipal Code of The City of San Diego be and it is hereby amended by adding Article 9 to Chapter VI entitled "Environmental Impact Report Procedural Ordinance" consisting of three divisions as follows:

ARTICLE 9
ENVIRONMENTAL IMPACT REPORT
PROCEDURAL ORDINANCE
DIVISION 1
GENERAL

SEC. 69.0101 PURPOSE AND INTENT

As a result of the decision entitled *Friends of Mammoth, et al. v. Board of Supervisors of Mono County, et al.*, Sac. 7924, and its interpretation of the Environmental Quality Act of 1970, it now appears that public agencies such as The City of San Diego are under an obligation to protect the interest of the public in securing, maintaining, preserving and protecting the environment. To that end, this ordinance is promulgated for the purpose of establishing guidelines, criteria and procedures for the preparation, submission and review of Environmental Impact Reports on those public and private projects requiring governmental authorization which may have a significant effect on the environment. In addition, it is also necessary to establish standards in determining whether a particular project may or may not have a significant or nontrivial effect on the environment.

It is the further intent and purpose of this ordinance to provide appropriate interim procedural methods to facilitate the review and disposition of those private projects which may have a significant effect on the environment that had been initiated prior to the time the California Supreme Court rendered its decision in the aforementioned Mammoth case.

SEC. 69.0102 CITATION OF ORDINANCE

This article may be cited as the Environmental Impact Report Procedural Ordinance.

SEC. 69.0103 DEFINITIONS

Whenever the following words are used in this ordinance, unless otherwise defined, they shall have the meaning ascribed to them in this section.

a. **Activity or Activities**—shall be construed to apply to any construction work or grading and shall not be limited to public works construction;

b. **Applicant**—shall mean any person, corporate or otherwise, public or private, who has requested the City's permission to perform or carry out some project, activity, development or change in zone which may have a significant effect on the environment;

c. **Development**—shall mean any private project such as subdivisions, planned residential developments and the like;

d. **Environment**—refers to the totality of man's surroundings, both social and physical, natural and man-made. It includes human, plant and animal communities and the forces acting upon them;

e. **Environmental Assessment (EA)**—a formal evaluation statement, prepared by a private enterprise or City department originating a project, to determine whether the proposed project will have a significant effect on the environment;

f. **Environmental Impact Analysis (EIA)**—a written report analyzing the environmental effects. Such report shall contain those items required by Section 69.0306 of this ordinance;

g. **Environmental Impact Report (EIR)**—shall mean a detailed statement setting forth those matters specified in Section 69.0306 of this ordinance;

h. **Interested Person**—shall mean any person concerned about a project or report on a project and includes individual citizens, citizen groups, public agencies, City departments or the applicant;

i. **Negative Declaration (ND)**—is a written determination indicating that the particular project or activity shall not have a significant effect on the environment;

j. **Ordinance**—shall mean Article 9 of Chapter VI of the San Diego Municipal Code;

k. **Project**—shall refer to both public and private activities and shall include but not be limited to the following:

(1) Activities directly undertaken by The City of San Diego;

(2) Activities supported in whole or in part through City contracts, grants, subsidies, loans or other forms of assistance;

(3) Activities involving a City lease, permit, license or other entitlement for use not including changes of zone;

l. **Significant effect on the environment**—shall be interpreted broadly and shall mean any effect other than trivial which:

(1) Degrades or enhances the quality of the environment;

(2) Curtails the range of beneficial uses of the environment;

(3) Serves short-term, to the disadvantage of long-term, environmental or utilitarian goals;

"Significant effect" includes both beneficial and detrimental effects, and also environmental consequences of both primary and secondary nature. The determination of whether a particular project may have a significant effect on the environment, thus requiring the filing of an Environmental Impact Report, shall be made in accordance with those procedures set forth in Division 3 of this ordinance.

SEC. 69.0104 NECESSARY AND CONVENIENT PROCEDURE AUTHORIZED

Any procedure not expressly set forth in this ordinance but deemed necessary or convenient to carry out any of its purposes or the purposes of the Environmental Quality Act of 1970 is authorized.

SEC. 69.0105 SEVERABILITY CLAUSE

If any section or part of this ordinance be for any reason held unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of this ordinance, but such remaining portions shall be and remain in full force and effect.

SEC. 69.0106 AMENDMENT PROVISION

At such time as the full intent and meaning of the Supreme Court's decision in the Friends of Mammoth decision is made known, either by judicial or legislative interpretation, this ordinance may be amended or modified in whole or in part to conform to such interpretation.

SEC. 69.0107 CONSTRUCTION

This ordinance shall be liberally construed.

DIVISION 2

INTERIM GUIDELINES AND PROCEDURES

FOR PRE-SEPTEMBER 21, 1972 PRIVATE PROJECTS

SEC. 69.0201 APPLICATIONS ON OR BEFORE SEPTEMBER 21, 1972

On all applications for permits, leases or other entitlements for use of whatever nature which are a part of a development or project for which application was filed on or before September 21, 1972, the applicant may submit a Negative Declaration (a written statement in triplicate by the applicant certifying that the net long-term effect of his particular project or development shall not have a significant effect on the environment) to the City's Environmental Quality Department. Upon receipt of a Negative Declaration, the Environmental Quality Department shall file it with the City's Planning Commission. In the alternative, if a Negative Declaration cannot be made by applicant, he shall be required to conform to Sections 69.0301 through 69.0314.

SEC. 69.0202 NOTICE

Notice of the filing of the Negative Declaration shall be published in the City's official newspaper. Such publication shall be for one time and shall be accomplished by the City Clerk. The notice shall specifically include a general description of the project or development, the applicant's name, the project's location, the date and filing of the Negative Declaration, and a reference to this ordinance for appeal procedures.

SEC. 69.0203 APPEALS

Any interested person as defined herein may appeal within fourteen (14) days from the date of publication of notice of the filing of a Negative Declaration with the Planning Commission. Such appeal shall be made to the Environmental Appeals Board which may take whatever action it deems necessary and which is consistent with those powers enumerated in Section 69.0311. If at the end of the fourteen-day period no appeal has been taken, the Negative Declaration as filed shall become final and the permit or other similar entitlement may be issued.

SEC. 69.0204 APPLICATION

Provisions of Division 2 shall apply to those permits or other similar entitlements not exempted by Section 69.0302. In addition, said Division 2 shall not apply to those applications for permits and the like which were made after September 21, 1972. Those applicants submitting their applications or seeking major modifications of their original projects subsequent to that date shall be required to comply with those requirements set forth in Division 3.

**DIVISION 3
PROCEDURES FOR PREPARATION AND
REVIEW OF ENVIRONMENTAL IMPACT REPORTS
SEC. 69.0301 ENVIRONMENTAL IMPACT REPORTS REQUIRED:
PUBLIC AND PRIVATE PROJECTS**

The City of San Diego shall not authorize, approve, issue or allow any activity, project, development or changes in zone to be carried out which may have a significant or nontrivial effect on the environment unless an Environmental Impact Report has first been filed and reviewed by the City pursuant to this ordinance. If the City finds and determines that a proposed activity, project, development or change in zone will not have a significant effect on the environment, a report shall not be required. The determination of environmental significance shall be made pursuant to the objectives, criteria, standards and procedures established by this ordinance and in addition those promulgated and established by City Council resolution.

SEC. 69.0302 EXEMPTIONS

The Council of The City of San Diego finds and determines that certain activities, projects, development or changes in zone do not have a significant impact on the environment, and the following are therefore exempted from the provisions of this ordinance:

a. Public

- (1) City contracts for public works projects which do not exceed \$20,000.
- (2) City contracts for the purchase of supplies and materials.
- (3) City contracts for repair or maintenance of public structures or improvements.
- (4) The acquisition or disposition by lease or otherwise of City-owned real property with a fair market value of \$20,000 or less.

b. Private

- (1) Permits for the repair, maintenance or alteration of existing single-family residential structures.
- (2) Permits for the construction of new detached single-family residential structures to be built in existing urbanized areas, provided that the owner of the lot upon which construction is to occur owns no contiguous undeveloped property.
- (3) Permits for the construction of new detached two-family residential structures to be built in existing urbanized areas, provided that the owner of the lot upon which construction is to occur owns no contiguous undeveloped property.
- (4) Permits for repair, interior or minor exterior alteration of multifamily residential, commercial, industrial or institutional structures.
- (5) Permits for any activity in connection with any project or development where an Environmental Impact Report in accordance with this ordinance has been filed within four (4) years of the application therefor.
- (6) Permits for the repair or minor alterations to an existing mobile home park or an existing owner-occupied mobile home.
- (7) Encroachment permits not requiring City Council authorization.
- (8) Applications for a change in zone within any of the following categories of zones where a subdivision is not involved:
 - (a) Agricultural;
 - (b) Single-family residential;
 - (c) Multiple residential;
 - (d) Commercial;
 - (e) Manufacturing.

The intent of this paragraph is to require Environmental Impact Reports in connection with any application for a change of zone from one of the categories above to another. Thus an application for rezoning from R-1-20 to R-1-5 would not require an Environmental Impact Report if a subdivision map is not involved, but R-1-5 to R-2, R-3 or R-4 would, or from R-3 to CO or M-1A would.

- (9) Permits for the construction or repair of fences of whatever nature, retaining walls six (6) feet or less in height, and residential accessory structures such as private patio structures, private swimming pools and detached private garages.
- (10) Parcel maps not involving the installation of public improvements or private development.
- (11) Any other permits which are incidental to any project listed in subparagraphs (1) through (10) of this section.

All other permits, licenses, leases, other entitlements for use, authorizations or approvals of whatever nature are subject to the requirements of this ordinance. The City Council may by resolution exempt other classes or categories of construction or development from the provisions of this ordinance if the Council determines that said classes or categories of construction or development have a trivial or insignificant effect on the environment. Adoption of such a resolution shall be done at a public hearing before the Council, notice of which shall have been published once in the City's official newspaper at least fourteen (14) days prior to said hearing.

SEC. 69.0303 APPLICATION

Prior to the issuance of any permit, approval, authorization or other entitlement subject to the provisions of this ordinance, the applicant or appropriate City department shall prepare and submit an Environmental Assessment to the Environmental Quality Director for his review and determination as to the environmental significance of the proposed project or activity.

SEC. 69.0304 REVIEW BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT

The Director of the Environmental Quality Department, hereinafter referred to as the "Director," and his staff shall review the Environmental Assessment along with the plans for the proposed project to determine if the project as constructed in the proposed location may have a significant effect on the environment. The Director shall, if practical or feasible and if available, solicit the recommendations and viewpoints of all public agencies and departments of the City that may be affected by the proposed project and those private persons and organizations which have expressed interest in the environmental impact of the proposed project. Said determination shall be made within twenty-one (21) days of the date upon which he receives the assessment and plans for the proposed project.

The City Council shall by resolution establish objectives, criteria, standards and procedures which shall guide the Director in the making of said determination. The Director shall also be guided by the public policy and legislative intent set forth in Chapter 1 of the Environmental Quality Act of 1970.

SEC. 69.0305 DETERMINATION BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT THAT PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

If the Director of the Environmental Quality Department determines that the proposed project or activity may have a significant effect on the environment, the approval of a permit or the like shall not be granted until an Environmental Impact Report on said project has been prepared, filed with the Planning Commission, and has become final. In the preparation of the report, the Director may require the applicant or originating department to submit an Environmental Impact Analysis and whatever other information he deems necessary in order to adequately evaluate the environmental consequences of the proposed project. In addition, the Director shall, if practical or feasible and if available, solicit the recommendations and viewpoints of all public agencies and departments of the City that may be affected by the proposed project and those private persons and organizations which have expressed interest in the environmental impact of the proposed project. Such viewpoints and contentions shall be set forth in the Environmental Impact Report even if the Director finds no merit in them. The Environmental Impact Report shall contain the opinion of the Director with respect to all such viewpoints and contentions. Notice of the Director's determination shall be transmitted to the applicant or originating department in writing.

SEC. 69.0306 CONTENTS OF THE REPORT

The Environmental Impact Report shall include a detailed statement setting forth the following:

- a. The environmental impact of the proposed project.
- b. Any adverse environmental effects which cannot be avoided if the proposal is implemented.
- c. Mitigation measures proposed to minimize the impact.
- d. Alternatives to the proposed action including no project.
- e. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.
- f. Any irreversible environmental changes which would be involved in the proposed action should it be implemented.
- g. The growth-inducing impact of the proposed action.

SEC. 69.0307 PERMIT FEES

In order to cover the cost and expense of preparing Environmental Impact Reports and Negative Declarations, the City Manager shall prepare and submit to the Council an appropriate fee schedule. Such schedule shall become effective on approval by Council resolution and may be amended similarly by resolution as necessary.

SEC. 69.0308 DETERMINATION THAT PROJECT HAS TRIVIAL EFFECT UPON THE ENVIRONMENT

If the Director determines that the proposed project would have a trivial or lesser effect on the environment, then he shall use the Environmental Assessment as a basis for the preparation of a preliminary Negative Declaration. In making this determination, in his review the Director shall, if practical or feasible and if available, solicit comments and views of affected appropriate City departments and interested private citizens and groups. Notice of said determination shall be transmitted in writing, as applicable, either to the originating department or the applicant.

SEC. 69.0309 FILING OF ENVIRONMENTAL IMPACT REPORT OR NEGATIVE DECLARATION

Regardless of the Director's determination, he shall file, as applicable, either a preliminary Negative Declaration or preliminary Environmental Impact Report with the City's Planning Commission. Notice of such filing shall be published in the City's official newspaper once with a general description of the project, the applicant's name (City department or private individual), the proposed location, and reference to this ordinance for appeal procedures. Such publication shall be accomplished by the City Clerk.

SEC. 69.0310 APPEAL PROCEDURES

Within fourteen (14) days after the date of publication of the notice of the filing of a preliminary Environmental Impact Report or preliminary Negative Declaration has been filed with the Planning Commission, any interested person may appeal the adequacy of the same to the Environmental Appeals Board. "Interested person" shall include individual citizens, citizens' groups, public agencies, City departments, or the applicant. Such appeal must be in writing and must specify the basis upon which the appeal is being made. The appeal will then be reviewed and acted upon by the Appeals Board. If no appeal is taken within the above time period, the preliminary Environmental Impact Report or Negative Declaration shall become final and shall be transmitted to the appropriate governing or administrative authority for consideration in the decision-making process. No permit or approval shall be granted during the appeal period and if an appeal is filed, no permit or approval shall be granted until such time as the appeal is finally decided by the Appeals Board.

SEC. 69.0311 ENVIRONMENTAL APPEALS BOARD

a. There is hereby created an Environmental Appeals Board which shall consist of five (5) members who shall serve without compensation. The members shall be appointed by the Mayor and confirmed by the Council. Appointments shall be made for two-year terms with the initial appointments to include two (2) appointments for one (1) year ending March 1, 1973, and three (3) appointments for two (2) years each ending March 1, 1974. Each appointee shall serve until his successor is duly appointed and qualified. Vacancies shall be filled for the unexpired term of the term of the member whose place becomes vacant. The Environmental Appeals Board membership shall include representatives from the following areas: physical and environmental sciences, social sciences, citizens' groups and private developers.

During March of each year the Mayor may designate one member as chairman; however, in the absence of such designation, the Board shall, on or after April 15, select a chairman from among its members.

b. The Board shall adopt such rules and regulations consistent with law for the government of its business and procedures. The Board shall meet not less than once every two (2) weeks.

c. The Board is charged with the following duties:

(1) Reviewing Environmental Impact Reports to determine the sufficiency of such reports when such reports are questioned upon appeal.

(2) Rendering advice on procedures for the preparation and review of Environmental Impact Reports and Negative Declarations to appropriate agencies of City government.

In carrying out such duties, the Board shall exercise those powers enumerated in Section 69.0312.

SEC. 69.0312 ENVIRONMENTAL APPEALS BOARD PROCEDURES

The Environmental Appeals Board may, upon receipt of a written appeal:

a. Return the Environmental Impact Report or Negative Declaration to the originating department or applicant for further information and clarification. If information provided by the originating department is satisfactory to appellant, the final Environmental Impact Report or Negative Declaration shall be issued upon expiration of the appeals period.

b. If information provided is unsatisfactory to appellant, the preliminary Environmental Impact Report or Negative Declaration is submitted to the Appeals Board for review together with the proposed plans.

c. (1) Upon review, the Appeals Board may modify or revise the Environmental Impact Report or Negative Declaration and in so doing may require the originating department, applicant or the Director to provide all necessary information and data. At such time as the Board is satisfied with the Environmental Impact Report, it shall become final.

(2) If a Negative Declaration has been filed and such determination is appealed, the Appeals Board may overrule such determination and require that an Environmental Impact Report be made.

(3) Upon review, the Appeals Board may approve the Environmental Impact Report or Negative Declaration as filed, and upon expiration of the appeals period, it shall become final.

In its review, the Board shall restrict itself solely to the question of the sufficiency of the report. Upon final acceptance by the Appeals Board of the Environmental Impact Report or Negative Declaration, such report or declaration shall be submitted to the appropriate governing or administrative authority for consideration in the decision-making process.

SEC. 69.0313 DISAPPROVAL OF PROJECTS

A project or activity requiring an Environmental Impact Report may be disapproved and a City lease, permit, license or other entitlement of use denied if it is determined by the appropriate authority that the project or activity proposed would result in an adverse impact on the environment which is unreasonable in light of the expected benefit, both public and private, to be derived from the project. In determining whether the expected adverse impact on the environment is unreasonable, the appropriate authority shall consider whether the public interest in securing, maintaining, preserving and protecting the environment outweighs any possible benefit, public or private, that may be derived from approving the project.

Disapproval of any project may be made at any of the following procedural levels:

a. Subdivision Review Board in considering a tentative map. Appeals thereafter may be taken pursuant to Section 102.0205.

b. Zoning Administrator in considering any variance or other matter before him. Appeals thereafter may be taken pursuant to Section 101.0504.

c. Board of Zoning Appeals on any appeal. Appeals thereafter may be taken pursuant to Section 101.0505.

d. Planning Commission on any appeal and in considering a Conditional Use Permit, Planned Unit Development or Planned Residential Development. Appeals thereafter may be taken pursuant to Sections 101.0500E and 101.0900G.

e. City Council on any appeal and in considering approval of any zoning not exempted under Section 69.0302, or any Conditional Use Permit, Planned Unit Development or Planned Residential Development.

f. Where none of the foregoing procedural levels apply, then the City Council may consider such action on application to it by any interested person taken within twenty-one (21) days of the filing of any Environmental Impact Report with the Planning Commission or fourteen (14) days after any decision of the Appeals Board is final.

SEC. 69.0314 LIMITATION OF TIME FOR BRINGING LEGAL ACTION

Any action or proceeding to attack, review, set aside, void or annul any decision of matters listed in this ordinance or concerning any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced within thirty (30) days after the date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations.

Section 2, Chapter II, Article 2, Section 22.1801 of the San Diego Municipal Code be and the same is hereby amended by adding thereto the Environmental Quality Department, said department to be inserted in said section between the departments of Employee Services and Facilities.

Section 3, Chapter II, Article 2, of the San Diego Municipal Code be and the same is hereby amended by adding Division 22, Sections 22.2201 and 22.2202 relating to the Environmental Quality Department to read as follows:

DIVISION 22

ENVIRONMENTAL QUALITY DEPARTMENT

SEC. 22.2201 ENVIRONMENTAL QUALITY DEPARTMENT

The Environmental Quality Department is a City department. The Director is the administrative head of the department and he shall be appointed by and may be removed by the City Manager.

SEC. 22.2202 POWERS AND DUTIES OF THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT

The Director of the Environmental Quality Department shall be responsible for conducting reviews and making determinations as to the environmental significance of proposed projects or activities under and pursuant to guidelines set forth in appropriate ordinances, regulations, standards and procedures of the City of San Diego.

The department shall conduct those activities, prepare appropriate reports and perform such services as are set forth in and required by the Environmental Impact Report Procedural Ordinance, Chapter VI, Article 9, Section 69.0101 et seq. of the San Diego Municipal Code.

Section 4.

1. Ordinance No. 10845 (New Series), as amended, of the ordinances of the City of San Diego entitled "AN ORDINANCE ESTABLISHING A SCHEDULE OF COMPENSATION FOR OFFICERS AND EMPLOYEES OF THE CITY OF SAN DIEGO FOR THE FISCAL YEAR 1972-73" is hereby amended by amending Exhibit C thereto to create and establish the unclassified positions of Director of Environmental Quality and Assistant Director of Environmental Quality.

2. As a schedule of compensation for the positions created hereinabove, the following salary ranges of the Table of Executive Salary Ranges established and adopted by Ordinance No. 10845 (New Series), as amended, of the ordinances of said City, are hereby adopted:

Salary Range ^{III} C

Director of Environmental Quality ^B
Assistant Director of Environmental Quality ^B

The position of Director of Environmental Quality shall be inserted in Exhibit C of Ordinance No. 10845 (New Series), as amended, under the general category of EXECUTIVE, Classification Range Executive III between the positions of Data Processing Director and Human Resources Director.

The position of Assistant Director of Environmental Quality shall be inserted in Exhibit C of Ordinance No. 10845 (New Series), as amended, under the general category of EXECUTIVE, Classification Range Executive II between the positions of Assistant City Librarian and Assistant Human Resources Director.

Section 5. That Ordinance No. 10873 (New Series), as amended, entitled "AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR 1972-73 AND APPROPRIATING THE NECESSARY MONEY TO OPERATE THE CITY OF SAN DIEGO FOR SAID FISCAL YEAR," be and the same is hereby further amended to add thereto within the General Fund 100 the Environmental Quality Department, and to include therein personnel positions and funds for personal services, non-personal expenses and equipment outlay in accordance with the form of Annual Budget Request, Position and Salary Schedule, and supporting documents on file in the office of the City Clerk as Document No. 741819, as follows:

| | |
|-----------------------|--------------------|
| Personal Services | \$72,472.00 |
| Non-Personal Expenses | 21,084.00 |
| Equipment Outlay | 5,386.00 |
| Total | \$98,922.00 |

Section 6. That the City Auditor and Comptroller be and he is hereby authorized and directed to reduce the Unallocated Reserve (\$3,300) in the amount of \$98,922.00, establish appropriate accounting for the Environmental Quality Department and transfer said sum of \$98,922.00 to the Environmental Quality Departmental accounts to be used solely and exclusively for the purpose of providing funds for the operation of said department for the remainder of fiscal year 1973 as set forth in Section 5 herein.

Section 7. This ordinance shall take effect and be in force on the thirtieth day from and after its adoption.

Passed and adopted by the Council of The City of San Diego on November 14, 1972, by the following vote:

YEA: Johnson, O'Connor, Landt, Williams, Morrow, Martinet, Bates.
NAYS: None.

ABSENT: Hatch, Wilson.

AUTHENTICATED BY: PETE WILSON,
Mayor of The City of San Diego, California.
EDWARD NIELSEN,
City Clerk of The City of San Diego, California.
By ANN C. JOLLETT, Deputy.

(Seal)
I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on October 31, 1972, and on November 14, 1972.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN,
City Clerk of The City of San Diego, California.
By ANN C. JOLLETT, Deputy.

(Seal)
Published November 24, 1972 W-209

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