

EMERGENCY ORDINANCE NO.
(New Series)

10961

DEC 14 1972

AN EMERGENCY ORDINANCE AMENDING CHAPTER VI,
ARTICLE 9, DIVISIONS 1, 2 AND 3 OF THE SAN
DIEGO MUNICIPAL CODE BY AMENDING SECTIONS
69.0101, 69.0103, 69.0201, 69.0202, 69.0301,
69.0302, 69.0303, 69.0304, 69.0305, 69.0307,
69.0309, 69.0310, 69.0311 AND 69.0314, AND
REPEALING SECTIONS 69.0106 AND 69.0204 OF
THE ENVIRONMENTAL IMPACT REPORT PROCEDURAL
ORDINANCE.

WHEREAS, The City of San Diego on November 14, 1972,
introduced Ordinance No. 10952 (New Series) establishing
procedures relating to the filing and processing of
Environmental Impact Reports; and

WHEREAS, said Ordinance No. 10952 (New Series) becomes
effective on December 14, 1972; and

WHEREAS, the State of California has enacted urgency
legislation hereinafter referred to as "A.B. 889"; and

WHEREAS, A.B. 889 became effective immediately when
it was signed by the Governor on December 6, 1972; and

WHEREAS, A.B. 889 amended the Environmental Quality
Act of 1970 ameliorating the effect of the decision of 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, allowing up to 121 days for local
agencies to establish procedures to implement the Environ-
mental Quality Act of 1970 and exempting all ministerial
permits from the requirements of the Environmental Quality
Act of 1970; and

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WHEREAS, the action of the State Legislature and the Governor of the State of California has created an immediate need to amend the aforementioned Ordinance No. 10952 (New Series) to bring it in line with the provisions of A.B. 889 in order that development and the issuance of permits of all kinds can proceed in an orderly and expeditious manner; and

WHEREAS, failure to amend said ordinance will create a chaotic condition with conflicting State and City requirements, the administration of which would become nigh on to impossible; and

WHEREAS, the above facts establish the necessity of the enactment of an emergency ordinance by The City of San Diego in order to provide for the immediate preservation of the public peace, property, health and safety, said ordinance to become effective immediately upon its adoption; NOW, THEREFORE,

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

Section 1. That Chapter VI, Article 9, Divisions 1, 2 and 3 of the San Diego Municipal Code be and it is hereby amended by amending Sections 69.0101, 69.0103, 69.0201, 69.0202, /^{69.0203}69.0301, 69.0302, 69.0303, 69.0304, 69.0305, 69.0307, 69.0309, 69.0310, 69.0311 and 69.0314 to read as follows:

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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.

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 and shall not be limited to public works construction.

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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 - means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, noise and objects of historic or aesthetic significance;

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, beneficial or detrimental, of the proposed project. 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

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specified in Section 69.0306 of this ordinance; such report is an informational document which must be considered by the appropriate decision making authority prior to the approval or disapproval of a project.

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. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, and political subdivisions of such entities.

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 mean the following:

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

(2) Activities undertaken by a person, corporate or otherwise, which are supported

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in whole or in part through City contracts, grants, subsidies, loans or other forms of assistance;

(3) Activities involving the issuance to a person, corporate or otherwise, of a lease, permit, license, certificate or other entitlement for use by The City of San Diego;

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

(1) has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals;

(2) are individually limited but cumulatively considerable;

(3) will cause substantial adverse effects on human beings, either directly or indirectly.

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.

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DIVISION 2

INTERIM GUIDELINES AND PROCEDURES

SEC. 69.0201 APPLICATIONS ON OR BEFORE DECEMBER 5,
1972

Any project defined in Section 69.0103, subsection k(3), undertaken, carried out or approved on or before December 5, 1972, and the issuance by The City of San Diego of any lease, permit, license, certificate or other entitlement for use executed or issued on or before said date, notwithstanding a failure to comply with this ordinance, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective. Any project undertaken by a person which was supported in whole or in part through contracts with one or more public agencies on or before December 5, 1972, notwithstanding a failure to comply with this ordinance, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective. A project is considered to be undertaken, carried out or approved if prior to December 5, 1972, the applicant has received from The City of San Diego any and all discretionary permits required for his project. If subsequent to December 5, 1972, an applicant is seeking a discretionary permit from The City of San Diego even though he has received a prior discretionary permit, he must comply with those procedures set forth in Division 3 of the Ordinance.

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If the applicant has applied for a discretionary permit prior to December 5, 1972, but has of that date not received approval from the City, said applicant shall be required to comply with Division 3 of this ordinance. If an applicant prior to December 5, 1972, has applied for a ministerial permit, said permit shall be approved pursuant to Section 69.0302b of this ordinance if otherwise legal and valid.

SEC. 69.0202 LEGAL PROCEEDINGS INVOLVING
PRE-DECEMBER 5, 1972, PRIVATE PROJECTS

Section 69.0201 shall not operate to confirm, validate or give legal effect to any project the legality of which was being contested in a judicial proceeding in which proceeding the pleadings, prior to December 5, 1972, alleged facts constituting a cause of action for or raised the issue of a violation of this ordinance, and which was pending and undetermined on December 5, 1972, provided, however, that Section 69.0201 shall operate to confirm, validate or give legal effect to any project to which this section applies if, prior to the commencement of judicial proceedings and in good faith and in reliance upon the issuance by The City of San Diego of any lease, permit, license, certificate or other entitlement for use, substantial construction has been performed and substantial liabilities for construction and necessary materials have been incurred.

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SEC. 69.0203 JUDICIAL DECLARATION OF INVALIDITY

Section 69.0201 shall not operate to confirm, validate or give legal effect to any project which had been determined in any judicial proceeding on or before December 5, 1972, to be illegal, void or ineffective because of noncompliance with this ordinance.

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. Prior to any approval or disapproval, the City shall find and determine whether a proposed activity, project, development or change in zone will have a significant effect on the environment. The determination of environmental significance shall be made pursuant to the objectives, criteria, standards and procedures established by this ordinance, those promulgated by the State Office of the Secretary of Resources, and

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those announced in the California Environmental Quality Act of 1970, as amended.

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 wherein the actual construction cost, excluding incidentals and engineering, does 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) All ministerial permits.

(2) When an Environmental Impact Report has been prepared for a project pursuant to this ordinance, no subsequent

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Environmental Impact Report shall be required unless either of the following occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the Environmental Impact Report; or

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the Environmental Impact Report.

(3) Encroachment permits not requiring City Council authorization.

(4) Applications for a change in zone within any of the following categories of zones where the zone change is not subject to the recordation of a subdivision map:

- (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

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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.

(5) Parcel maps not involving the installation of public improvements which do not exceed \$20,000 in actual construction costs.

(6) All permits incidental to zoning variances which are of a minor nature, such as yard encroachments, and which involve a cost not exceeding \$7,500.

All other permits, licenses, leases, other entitlements for use, authorizations or approvals of a discretionary nature are subject to the requirements of this ordinance. Pursuant to Section 21086 of the California Environmental Quality Act of 1970, as amended, the City Council may request exemption by resolution of 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

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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 of discretionary nature 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 DETERMINATION BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT THAT PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

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

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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 by resolution shall authorize the City Manager to 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, as amended, and shall be consistent with those criteria established by the State Office of the Secretary of Resources.

SEC. 69.0305 PREPARATION OF ENVIRONMENTAL IMPACT REPORT

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

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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. 69.0307 PERMIT FEES

In order to cover the cost and expense of preparing and processing Environmental Impact Reports, Negative Declarations and Environmental Assessments, 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. 69.0309 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

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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. This requirement is in addition to those filing and notice requirements imposed by the California Environmental Quality Act of 1970, as amended.

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, in detail, the basis upon which the appeal is being made. Such appeal shall speak to specific points contained in the Environmental Impact Report or Negative Declaration. 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

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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 one (1) representative from each of the following areas: physical sciences, 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

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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. 69.0314 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

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or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced within those time limits set forth in the California Environmental Quality Act of 1970, as amended.

Section 2. That Chapter VI, Article 9, of the San Diego Municipal Code be and it is hereby amended by repealing the following sections:

SEC. 69.0106 AMENDMENT PROVISION; and

SEC. 69.0204 APPLICATION.

Section 3. This ordinance shall take effect and be in force immediately upon its adoption.

APPROVED: JOHN W. WITT, City Attorney

By DW Detisch
Donald W. Detisch, Deputy

DWD:K
12-12-72

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DEC 14 1972

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

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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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 Mary Anne Mease, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on DEC 14 1972, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

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 Mary Anne Mease Deputy.

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Office of the City Clerk, San Diego, California

OLD LANGUAGE--Crossed out.
NEW LANGUAGE--Underlined.

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. 69.0103 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 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~~ means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, noise and objects of historic or aesthetic significance;

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, beneficial or detrimental, of the proposed project.

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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; such report is an informational document which must be considered by the appropriate decision-making authority prior to the approval or disapproval of a project.

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.

"Person" includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, and political subdivisions of such entities.

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 mean the following:

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

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(2) Activities undertaken by a person, corporate or otherwise, which are supported in whole or in part through City contracts, grants, subsidies, loans or other forms of assistance;

(3) Activities involving the issuance to a person, corporate or otherwise, of a lease, permit, license, certificate or other entitlement for use by The City of San Diego;

1. 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 has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals;

(2) Curtails-the-range-of-beneficial-uses-of the-environment are individually limited but cumulatively considerable;

(3) Serves-short-term-to-the-disadvantage of-long-term-environmental-or-utilitarian-goals will cause substantial adverse effects on human beings, either directly or indirectly.

"Significant-effect"-includes-beth-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.

DIVISION 2

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

SEC. 69.0201 APPLICATIONS ON OR BEFORE SEPTEMBER-21
DECEMBER 5, 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. Any project defined in Section 69.0103, subsection k(3), undertaken, carried out or approved on or before December 5, 1972, and the issuance by The City of San Diego of any lease, permit, license, certificate or other entitlement for use executed or issued on or before said date, notwithstanding a failure to comply with this ordinance, if otherwise legal and valid, is hereby~~

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confirmed, validated and declared legally effective. Any project undertaken by a person which was supported in whole or in part through contracts with one or more public agencies on or before December 5, 1972, notwithstanding a failure to comply with this ordinance, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective.

A project is considered to be undertaken, carried out or approved if prior to December 5, 1972, the applicant has received from The City of San Diego any and all discretionary permits required for his project. If subsequent to December 5, 1972, an applicant is seeking a discretionary permit from The City of San Diego even though he has received a prior discretionary permit, he must comply with those procedures set forth in Division 3 of this ordinance. If the applicant has applied for a discretionary permit prior to December 5, 1972, but has of that date not received approval from the City, said applicant shall be required to comply with Division 3 of this ordinance. If an applicant prior to December 5, 1972, has applied for a ministerial permit, said permit shall be approved pursuant to Section 69.0302b of this ordinance if otherwise legal and valid.

SEC. 69.0202 NOTICE LEGAL PROCEEDINGS INVOLVING
PRE-DECEMBER 5, 1972, PRIVATE PROJECTS

~~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: Section 69.0201 shall not operate to~~
~~confirm, validate or give legal effect to any project the~~
~~legality of which was being contested in a judicial proceeding~~
~~in which proceeding the pleadings, prior to December 5,~~
~~1972, alleged facts constituting a cause of action for or~~
~~raised the issue of a violation of this ordinance, and which~~
~~was pending and undetermined on December 5, 1972, provided,~~
~~however, that Section 69.0201 shall operate to confirm,~~
~~validate or give legal effect to any project to which this~~
~~section applies if, prior to the commencement of judicial~~
~~proceedings and in good faith and in reliance upon the issuance~~
~~by The City of San Diego of any lease, permit, license,~~
~~certificate or other entitlement for use, substantial construction~~
~~has been performed and substantial liabilities for construction~~
~~and necessary materials have been incurred.~~

SEC. 69.0203 APPEALS JUDICIAL DECLARATION OF INVALIDITY

~~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.~~

Section 69.0201 shall not operate to confirm, validate or give legal effect to any project which had been determined in any judicial proceeding on or before December 5, 1972, to be illegal, void or ineffective because of noncompliance with this ordinance.

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~~ Prior to any approval or disapproval, the City shall find and determines that whether 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~~ those promulgated by the State Office of the Secretary of Resources, and those announced in the California Environmental Quality Act of 1970, as amended.

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~~ wherein the actual construction cost, excluding incidentals and engineering, does 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~~

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~~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 multi-family 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.~~

(1) All ministerial permits.

(2) When an Environmental Impact Report has been prepared for a project pursuant to this ordinance, no subsequent Environmental Impact Report shall be required unless either of the following occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the Environmental Impact Report; or

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the Environmental Impact Report.

(3) Encroachment permits not requiring City Council authorization.

(4) Applications for a change in zone within any of the following categories of zones where the zone change is not subject to the recordation of a subdivision map:

- (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 H-1A would.

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(5) Parcel maps not involving the installation of public improvements which do not exceed \$20,000 in actual construction costs.

(6) All permits incidental to zoning variances which are of a minor nature, such as yard encroachments, and which involve a cost not exceeding \$7,500.

All other permits, licenses, leases, other entitlements for use, authorizations or approvals of whatever a discretionary nature are subject to the requirements of this ordinance. Pursuant to Section 21086 of the California Environmental Quality Act of 1970, as amended, the City Council may request exemption by resolution exempt of 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 of discretionary nature 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 DETERMINATION BY THE DIRECTOR
OF THE ENVIRONMENTAL QUALITY DEPARTMENT THAT
PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE
ENVIRONMENT

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 shall authorize the City Manager to 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, as amended, and shall be consistent with those criteria established by the State Office of the Secretary of Resources.

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

[The title only was changed; the remainder of this section remains the same.]

SEC. 69.0307 PERMIT FEES

In order to cover the cost and expense of preparing and processing Environmental Impact Reports, and Negative Declarations, and Environmental Assessments, 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. 69.0309 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. This requirement is in addition to those filing and notice requirements imposed by the California Environmental Quality Act of 1970, as amended.

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, in detail, the basis upon which the appeal is being made. Such appeal shall speak to specific points contained in the Environmental Impact Report or Negative Declaration. 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 one (1) representatives from each of the following areas: physical and sciences, 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.

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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 those time limits set forth in the California Environmental Quality Act of 1970, as amended. ~~Whereafter-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.~~

*Numbered Ord
Orig. only*

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SAN DIEGO, CALIF. *JB*

ATTORNEY (S)

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

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

ENVIRONMENTAL IMPACT REPORT PROCEDURAL
ORDINANCE

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

EMERGENCY ORDINANCE NO. 10961
(NEW SERIES)

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

December 22, 1972

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

December 22, 1972

Patricia M. Applestill
(Signature)

Ord 10961 NS

69" @ \$4.20 = \$289.80 01870

EMERGENCY ORDINANCE NO. 10961

(New Series)

10961

AN EMERGENCY ORDINANCE AMENDING CHAPTER VI, ARTICLE 9, DIVISIONS 1, 2 AND 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 69.0101, 69.0103, 69.0201, 69.0202, 69.0203, 69.0301, 69.0302, 69.0303, 69.0304, 69.0305, 69.0307, 69.0309, 69.0310, 69.0311 AND 69.0314, AND REPEALING SECTIONS 69.0108 AND 69.0204 OF THE ENVIRONMENTAL IMPACT REPORT PROCEDURAL ORDINANCE.

WHEREAS, The City of San Diego on November 14, 1972, introduced Ordinance No. 10952 (New Series) establishing procedures relating to the filing and processing of Environmental Impact Reports; and

WHEREAS, said Ordinance No. 10952 (New Series) becomes effective on December 14, 1972; and

WHEREAS, the State of California has enacted urgency legislation hereinafter referred to as "A.B. 889"; and

WHEREAS, A.B. 889 became effective immediately when it was signed by the Governor on December 6, 1972; and

WHEREAS, A.B. 889 amended the Environmental Quality Act of 1970 ameliorating the effect of the decision of 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, allowing up to 121 days for local agencies to establish procedures to implement the Environmental Quality Act of 1970 and exempting all ministerial permits from the requirements of the Environmental Quality Act of 1970; and

WHEREAS, the action of the State Legislature and the Governor of the State of California has created an immediate need to amend the aforementioned Ordinance No. 10952 (New Series) to bring it in line with the provisions of A.B. 889 in order that development and the issuance of permits of all kinds can proceed in an orderly and expeditious manner; and

WHEREAS, failure to amend said ordinance will create a chaotic condition with conflicting State and City requirements, the administration of which would become nigh on to impossible; and

WHEREAS, the above facts establish the necessity of the enactment of an emergency ordinance by The City of San Diego in order to provide for the immediate preservation of the public peace, property, health and safety, said ordinance to become effective immediately upon its adoption; NOW, THEREFORE,

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

Section 1. That Chapter VI, Article 9, Divisions 1, 2 and 3 of the San Diego Municipal Code be and it is hereby amended by amending Sections 69.0101, 69.0103, 69.0201, 69.0202, 69.0203, 69.0301, 69.0302, 69.0303, 69.0304, 69.0305, 69.0307, 69.0309, 69.0310, 69.0311 and 69.0314 to read as follows:

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.

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 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**—means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, noise and objects of historic or aesthetic significance;

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, beneficial or detrimental, of the proposed project. 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; such report is an informational document which must be considered by the appropriate decision making authority prior to the approval or disapproval of a project;

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. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, and political subdivisions of such entities;

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 mean the following:

- (1) Activities directly undertaken by The City of San Diego;
- (2) Activities undertaken by a person, corporate or otherwise, which are supported in whole or in part through City contracts, grants, subsidies, loans or other forms of assistance;
- (3) Activities involving the issuance to a person, corporate or otherwise, of a lease, permit, license, certificate or other entitlement for use by The City of San Diego;

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

- (1) Has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals;
- (2) are individually limited but cumulatively considerable;
- (3) will cause substantial adverse effects on human beings, either directly or indirectly.

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 procedure set forth in Division 3 of this ordinance.

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DIVISION 2

INTERIM GUIDELINES AND PROCEDURES

SEC. 69.0201 APPLICATIONS ON OR BEFORE DECEMBER 5, 1972

Any project defined in Section 69.0103, subsection k(3), undertaken, carried out or approved on or before December 5, 1972, and the issuance by The City of San Diego of any lease, permit, license, certificate or other entitlement for use executed or issued on or before said date, notwithstanding a failure to comply with this ordinance, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective. Any project undertaken by a person which was supported in whole or in part through contracts with one or more public agencies on or before December 5, 1972, notwithstanding a failure to comply with this ordinance, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective. A project is considered to be undertaken, carried out or approved if prior to December 5, 1972, the applicant has received from The City of San Diego any and all discretionary permits required for his project. If subsequent to December 5, 1972, an applicant is seeking a discretionary permit from The City of San Diego even though he has received a prior discretionary permit, he must comply with those procedures set forth in Division 3 of this ordinance. If the applicant has applied for a discretionary permit prior to December 5, 1972, but has of that date not received approval from the City, said applicant shall be required to comply with Division 3 of this ordinance. If an applicant prior to December 5, 1972, has applied for a ministerial permit, said permit shall be approved pursuant to Section 69.0302b of this ordinance if otherwise legal and valid.

SEC. 69.0202 LEGAL PROCEEDINGS INVOLVING PRE-DECEMBER 5, 1972, PRIVATE PROJECTS

Section 69.0201 shall not operate to confirm, validate or give legal effect to any project the legality of which was being contested in a judicial proceeding in which proceeding the pleadings, prior to December 5, 1972, alleged facts constituting a cause of action for or raised the issue of a violation of this ordinance, and which was pending and undetermined on December 5, 1972, provided, however, that Section 69.0201 shall operate to confirm, validate or give legal effect to any project to which this section applies if, prior to the commencement of judicial proceedings and in good faith and in reliance upon the issuance by The City of San Diego of any lease, permit, license, certificate or other entitlement for use, substantial construction has been performed and substantial liabilities for construction and necessary materials have been incurred.

SEC. 69.0203 JUDICIAL DECLARATION OF INVALIDITY

Section 69.0201 shall not operate to confirm, validate or give legal effect to any project which had been determined in any judicial proceeding on or before December 5, 1972, to be illegal, void, or ineffective because of noncompliance with this ordinance.

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. Prior to any approval or disapproval, the City shall find and determine whether a proposed activity, project, development or change in zone will have a significant effect on the environment. The determination of environmental significance shall be made pursuant to the objectives, criteria, standards and procedures established by this ordinance, those promulgated by the State Office of the Secretary of Resources, and those announced in the California Environmental Quality Act of 1970, as amended.

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 wherein the actual construction cost, excluding incidentals and engineering, does 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) All ministerial permits.
- (2) When an Environmental Impact Report has been prepared for a project pursuant to this ordinance, no subsequent Environmental Impact Report shall be required unless either of the following occurs:
 - (a) Substantial changes are proposed in the project which will require major revisions of the Environmental Impact Report; or
 - (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the Environmental Impact Report.
- (3) Encroachment permits not requiring City Council authorization.
- (4) Applications for a change in zone within any of the following categories of zones where the zone change is not subject to the recordation of a subdivision map:
 - (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.

- (5) Parcel maps not involving the installation of public improvements which do not exceed \$20,000 in actual construction costs.

(G) All permits incidental to zoning variances which are of a minor nature, such as yard encroachments, and which involve

a cost not exceeding \$7,500.

All other permits, licenses, leases, other entitlements for use, authorizations or approvals of a discretionary nature are subject to the requirements of this ordinance. Pursuant to Section 21086 of the California Environmental Quality Act of 1970, as amended, the City Council may request exemption by resolution of 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 of discretionary nature 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 DETERMINATION BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT THAT PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

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 by resolution shall authorize the City Manager to 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, as amended, and shall be consistent with those criteria established by the State Office of the Secretary of Resources.

SEC. 69.0305 PREPARATION OF ENVIRONMENTAL IMPACT REPORT

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. 69.0307 PERMIT FEES

In order to cover the cost and expense of preparing and processing Environmental Impact Reports, Negative Declarations and Environmental Assessments, 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. 69.0309 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. This requirement is in addition to those filing and notice requirements imposed by the California Environmental Quality Act of 1970, as amended.

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 in detail, the basis upon which the appeal is being made. Such appeal shall speak to specific points contained in the Environmental Impact Report or Negative Declaration. 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 member whose place becomes vacant. The Environmental Appeals Board membership shall include one (1) representative from each of the following areas: physical sciences, 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. 69.0314 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 those time limits set forth in the California Environmental Quality Act of 1970, as amended, Section 2, That Chapter VI, Article 9, of the San Diego Municipal Code be and it is hereby amended by repealing the following sections:

SEC. 69.0106 AMENDMENT PROVISION; and

SEC. 69.0204 APPLICATION.

Section 3. This ordinance shall take effect and be in force immediately upon its adoption.

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

YEAS: Johnson, O'Connor, Landt, Williams, Martinet, Hitch, Bates.

NAYS: None.

ABSENT: Morrow, 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 MARY ANNE MEASE, Deputy.

(Seal)

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on December 14, 1972, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

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 MARY ANNE MEASE, Deputy.

(Seal)

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