

ORDINANCE NO. 11248 FEB 21 1974  
(New Series)

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 9, DIVISIONS 1, 2 and 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 69.0103, 69.0201, 69.0301, 69.0303, 69.0304, 69.0305, 69.0306, 69.0307, 69.0308, 69.0309, 69.0310, 69.0311, 69.0312 AND 69.0313, AND BY ADDING SECTION 69.0205 RELATING TO ENVIRONMENTAL IMPACT REPORT PROCEDURES.

WHEREAS, the revised State regulations entitled "Guidelines for the Implementation of the California Environmental Quality Act of 1970" were promulgated on December 17, 1973; and

WHEREAS, public agencies must bring their local environmental ordinances and guidelines into conformity with the aforesaid revised State guidelines; and

WHEREAS, certain changes in the procedures relating to the processing of environmental documents have become necessary and desirable; NOW, THEREFORE,

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

Section 1. That Chapter VI, Article 9, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 69.0103 to read as follows:

SEC. 69.0103 DEFINITIONS

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

- a. Activity - see definition of "project," below.

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b. Applicant - any person who proposes to carry out a project which needs a lease, permit, license, certificate, or other entitlement to use or financial assistance from one or more public agencies when that person applies for the governmental approval or assistance.

c. Approval - the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval. In connection with private activities, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.

d. California Environmental Quality Act (CEQA) - California Public Resources Code, Sections 21000 through 21174.

e. Categorical Exemption - an exception from the requirements of CEQA for a class of projects based on a finding by the Secretary for Resources and the City of San Diego that the class of projects does not have a significant effect on the environment.

f. Discretionary Project - an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of the public agency or body in the process of approving or determining to carry out a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

g. Emergency - a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

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

i. Environmental Documents - means draft and final Environmental Impact Reports, initial studies, Negative Declarations, Notices of Completion and Notices of Determination.

j. Environmental Impact Analysis (EIA) - a study submitted by the applicant which includes a detailed analysis of a project's environmental effects. The EIA must contain the information outlined in Section 69.0306 of this Article and an Environmental Assessment Form.

After independent evaluation by the Environmental Quality Department, the EIA may be considered as a draft EIR.

k. Environmental Impact Report (EIR) - a detailed statement setting forth the environmental effects and considerations pertaining to a project as specified in Section 21100 of the California Environmental Quality Act.

(1) Draft EIR means an EIR containing the information specified in Section 69.0306 of this Article.

(2) Final EIR means an EIR containing the information specified in Section 69.0306 of this Article, a section for comments received in the consultation process, and the response of the lead agency to the comments received.

l. Environmental Impact Statement (EIS) - an environmental impact report prepared pursuant to the National Environmental Policy Act (NEPA). The Federal Government uses the term EIS in the place of the term EIR which is used in CEQA.

m. Feasible - capable of being accomplished in a successful manner by reasonably available, economic, and workable means.

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n. Initial Study - a preliminary analysis prepared by the lead agency pursuant to Section 69.0304 of this Article to determine whether an EIR or a Negative Declaration must be prepared.

o. Lead Agency - the public agency which has the principal responsibility for preparing environmental documents and for carrying out or approving a project which may have a significant effect on the environment.

p. Local Agency - any public agency other than a state agency, board or commission. Local agency includes but is not limited to cities, counties, charter cities and counties, districts, school districts, special district, redevelopment agencies and any board, commission, or organizational subdivision of a local agency when so designated by order or resolution of the governing legislative body of the local agency.

q. Ministerial Projects - include those activities defined as projects which are undertaken or approved by a governmental decision which a public officer or public agency makes upon a given state of facts in a prescribed manner in obedience to the mandate of legal authority. With these projects, the officer or agency must act upon the given facts without regard to his own judgment or opinion concerning the propriety or wisdom of the act although the statute, ordinance, or regulation may require,

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in some degree, a construction of its language by the officer or agency.

r. Negative Declaration - a statement by the lead agency briefly presenting the reasons that the project, although not otherwise exempt, would not have a significant effect on the environment and therefore does not require an EIR.

s. Notice of Completion - a brief report filed with the Secretary for Resources as soon as a lead agency has completed a draft EIR and is prepared to send out copies for review.

t. Notice of Determination - a brief notice to be filed by a public agency when it approves or determines to carry out a project which is subject to the requirements of CEQA.

u. Person - includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, the State, and any of the agencies' political subdivisions of such entities.

v. Project:

(1) The whole of an action, resulting in physical impact on the environment, directly or ultimately, that is any of the following:

(a) An activity directly undertaken by any public agency including but not

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limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption of local General Plans or elements thereof pursuant to Government Code Sections 65100 through 65700.

(b) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(c) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(2) Project does not include:

(a) Anything specifically exempted by state law or municipal law.

(b) Proposals for legislation to be enacted by the State Legislature.

(c) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, emergency repairs to public service facilities, general policy and procedure making (except

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as they are applied to specific instances covered above), feasibility or planning studies.

(d) The submittal of proposals to a vote of the people of the State or of a particular community.

(3) The term "project" refers to the underlying activity and not to the governmental approval process.

w. Public Agency - includes any state agency, board or commission and any local or regional agency, as defined in this Article. It does not include the courts of the State. This term does not include agencies of the Federal Government.

x. Responsible Agency - a public agency which proposes to undertake or approve a project, but is not the lead agency for the project. It includes all public agencies other than the lead agency which have approval power over the project.

y. Significant Effect - a substantial adverse impact on the environment. The determination of whether a particular project will or will not have a significant effect on the environment shall be made in accordance with those procedures set forth in Division 3 of this Article, applicable State statutes and regulations, and other applicable City of San Diego ordinances and regulations.

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Section 2. That Chapter VI, Article 9, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 69.0201 to read as follows:

SEC. 69.0201 ONGOING PROJECTS

a. A public project as defined in this Article, approved prior to November 23, 1970, shall require an Environmental Impact Report or a Negative Declaration if the project may have a significant effect on the environment, and either of the following conditions exists:

(1) A substantial portion of public funds allocated for the project have not been spent and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that this Section (1) shall not apply to projects which come under the jurisdiction of the National Environmental Policy Act (NEPA) and which, through regulations promulgated under NEPA, were held to be too far advanced at the time of NEPA's effective date to require an EIS in compliance with those regulations.

(2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

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b. A private project as defined in this Article as it relates to contracts where the permit or other entitlement was issued, or the contract approved, prior to December 5, 1972, shall not require an EIR or Negative Declaration, subject to the following provisions:

(1) CEQA expressly does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this <sup>interim</sup> ~~interm~~ period. 1m

(2) Where the issuance or approval occurred prior to December 5, 1972 and prior to said date the project was legally challenged for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 21170 of CEQA.

(3) Where a project involving the issuance of a lease, permit, license, certificate or other entitlement to use has been granted a discretionary governmental approval for part of the project before December 5, 1972, and another or additional discretionary governmental approvals after December 5, 1972, the project shall require an EIR or Negative Declaration only if the approval or approvals after

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December 5, 1972 involve a greater degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

Section 3. That Chapter VI, Article 9, Division 2, of the San Diego Municipal Code be and the same is hereby amended by adding Section 69.0205 to read as follows:

SEC. 69.0205 ENVIRONMENTAL IMPACT REPORTS PROCESSED BETWEEN APRIL 3, 1973 AND FEBRUARY 15, 1974

Any Environmental Impact Report which has been completed or on which substantial work has been performed on or before February 15, 1974, in compliance with the provisions of this Article and The City of San Diego's "Guidelines for Implementation of the California Environmental Quality Act and for Processing Environmental Impact Reports and Negative Declarations," as adopted April 3, 1973, shall be deemed in compliance with the City's "Guidelines for Implementation of the California Environmental Quality Act of 1970," as adopted February, 1974, no further Environmental Impact Report shall be required except as provided in Section 69.0201(a) and (b).

Section 4. That Chapter VI, Article 9, Division 3, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 69.0301, 69.0303, 69.0304, 69.0305, 69.0306, 69.0307, 69.0308, 69.0309, 69.0310, 69.0311, 69.0312 and 69.0313 to read as follows:

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

a. The City of San Diego shall not authorize, approve, or allow any discretionary project, activity, development or changes in zone to be carried out which may have a significant effect on the environment unless an Environmental Impact Report has first been prepared, considered, filed and has become officially final, pursuant to this Article. Prior to the approval or disapproval of a proposed discretionary project, activity, development or change in zone, the City shall determine whether the proposed activity or project will have a significant effect on the environment. Said determination of environmental significance shall be made pursuant to the objectives, criteria, standards and procedures established by this Article, the Director's guidelines referred to in Section 69.0108, those promulgated by the State Office of the Secretary for Resources, and those set forth in the California Environmental Quality Act of 1970, as amended.

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b. This Article shall not apply to ministerial projects proposed to be carried out or approved by The City of San Diego. All other permits, licenses, leases or other entitlements for use, authorizations or approvals of a discretionary nature are subject to the requirements of this Article.

c. Whenever The City of San Diego approves or determines to carry out a project which is subject to the provisions of this Article, it shall file notice of such approval or determination with the County Clerk of the county or counties in which the project will be located.

SEC. 69.0303 APPLICATION

Prior to the issuance of any permit, approval, authorization or other entitlement for use of a discretionary nature subject to the provisions of this Article, the appropriate City department or applicant shall prepare, complete, and submit an Environmental Assessment or an Environmental Impact Analysis accompanied by appropriate plans to the Director for his review and evaluation in determining the environmental significance of the proposed project or activity.

If at the time the Environmental Assessment is submitted the applicant or City department has reason to believe that the proposed project may have a significant

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effect on the environment, the submission of an Environmental Impact Analysis together with the Environmental Assessment shall be permitted.

An Environmental Impact Analysis may be required when the Director determines that the proposed project will have a significant effect on the environment.

SEC. 69.0304 EVALUATION BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT-- MANDATORY FINDINGS

a. The Director and his staff shall review and evaluate the Environmental Assessment along with accompanying documents and plans to determine if the proposed project may have a significant effect on the environment. To assist the Director in his evaluation of a proposed project, he may require the applicant or City department to supply him with whatever information he deems necessary to adequately determine the environmental consequences. In his evaluation, the Director shall determine whether:

(1) The proposed project will or will not have any possible significant effect;

(2) The proposed project or activity is a "project" within the meaning of Section 69.0103, paragraph v.;

(3) The proposed project is ministerial, emergency or discretionary in nature;

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(4) The proposed project or activity is categorically exempt from the Article's application;

(5) The proposed project or activity ordinarily would be expected to have a significant effect on the environment, but due to circumstances peculiar to the specific project, it will not have a significant effect and thus qualify for a Negative Declaration as defined herein; or

(6) The proposed project or activity will have a significant effect on the environment and thus require the preparation of an Environmental Impact Report.

b. Notice of the Director's determination shall be transmitted to the applicant or originating department in writing.

c. In every case where any of the following conditions are found to exist as a result of a project, the project shall be found to have impacts with a significant effect on the environment.

(1) Impacts which have the potential to degrade the quality of the environment or curtail the range of the environment.

(2) Impacts which achieve short-term, to the disadvantage of long-term, environmental goals.

A short-term impact on the environment is one which

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occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.

(3) Impacts for a project which are individually limited, but cumulatively considerable. A project may affect two or more separate resources where the impact on each resource is relatively small. If the effect of the total of those impacts on the environment is significant, an EIR must be prepared. This mandatory finding of significance does not apply to two or more separate projects where the impact on each is insignificant.

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

SEC. 69.0305 PREPARATION OF ENVIRONMENTAL IMPACT REPORT

a. General. If the Director finds and determines after his initial evaluation that the proposed project or activity may have a significant effect on the environment, he must prepare or cause to be prepared an Environmental Impact Report. No approval shall be given or granted by the City for any particular project or activity until such report is complete and final and has been considered by the appropriate decision-making body. In the preparation of the report, the Director may require the applicant or

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originating City department to submit an Environmental Impact Analysis and whatever other information he deems necessary in order to adequately assess the environmental consequences of the proposed project. The Environmental Impact Analysis submitted by an applicant or City department may be considered by the Director as a draft Environmental Impact Report after receiving independent evaluation and analysis. The draft Environmental Impact Report which is sent out for public review must reflect the independent judgment of the Director. The accuracy and objectivity of the draft Environmental Impact Report is the responsibility of the Director and shall reflect his independent judgment regarding the project.

b. Timely Compliance. The preparation of an Environmental Impact Report shall be accomplished within a reasonable time period, depending, however, upon the nature and circumstances of the particular project involved.

c. Consultation with Other Public Agencies and Private Citizens. The Director shall, prior to completing an Environmental Impact Report, consult with and obtain comments from any public agency which has jurisdiction by law with respect to the particular project and may consult with any person who has special expertise with respect to environmental matters.

Additionally, the Director shall solicit and obtain

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the recommendations and viewpoints of any City department that may be affected by the proposed project and those private persons and organizations which have expressed an interest in the environmental impact of a proposed project. This shall be effected during preparation of the report.

d. Draft Environmental Impact Report. As soon as the Director has completed his draft Environmental Impact Report or has received an Environmental Impact Analysis which, after independent evaluation and analysis, he desires to treat as a draft Environmental Impact Report but before any copies are distributed for review, he shall transmit an official notice to the Secretary for Resources indicating that the draft report is completed.

Additionally, legal notice indicating that the draft report is completed shall be published by the City Clerk, and the Director shall take all necessary steps to insure that copies of the draft Environmental Impact Report are distributed for review and comment to appropriate public agencies and to members of the public requesting them. Members of the general public requesting copies of the Environmental Impact Report shall be charged for the actual cost of reproducing such copies. All comments, recommendations and viewpoints shall be included in the Environmental Impact Report even if the Director finds no merit in them. The report shall also contain the Director's opinion with respect to all such comments. Such

consultation shall be a continuous process until such time as the Environmental Impact Report has become officially final.

e. Final Environmental Impact Report. The draft Environmental Impact Report shall become officially final upon expiration of the public review period if the draft report is unchallenged during that period, or upon expiration of the appeals period referred to in Section 69.0310, or upon approval by the Environmental Appeals Board. The final report shall contain those elements set forth in Section 69.0306, comments received through the consultation process described in paragraphs c. and d. of this section, above, the Director's responses to such comments, and the identity of all persons, public and private, consulted with regard to said report.

f. Submission to Decision-Making Authority. The official final Environmental Impact Report shall be presented to the appropriate decision-making authority. In those instances wherein The City of San Diego is the lead agency, the decision-making authority shall certify that the final Environmental Impact Report or final Negative Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) and the State guidelines pursuant thereto, and shall certify that the Environmental Impact Report or Negative Declaration has been reviewed and considered prior to making a decision to approve or disapprove

the project. In those instances wherein The City of San Diego is the responsible agency, as defined in Section 69.0103, paragraph x., the decision-making authority shall certify that the lead agency's Environmental Impact Report or Negative Declaration has been reviewed and considered prior to making a decision to approve or disapprove the project.

After making a decision on the project, the appropriate authority shall cause a Notice of Determination to be filed with the County Clerk of the county or counties in which the project will be located.

SEC. 69.0306 CONTENTS OF THE REPORT

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

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

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h. Any irreversible environmental changes which would be involved in the proposed action should it be implemented.

i. The growth-inducing impact of the proposed action.

SEC. 69.0307 PERMIT FEES

In order to recover the estimated costs incurred in preparing and processing 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 WILL NOT HAVE A SIGNIFICANT EFFECT

If the Director determines that the proposed activity or project due to circumstances peculiar to the specific project will not have a significant effect on the environment, then he shall prepare a draft Negative Declaration which shall not exceed one page in length. Such Declaration shall include a description of the project as proposed and a finding that the project will not have a significant effect on the environment and a brief statement of reasons to support the finding. A Negative Declaration shall be filed with sufficient time before the project is approved or disapproved to provide an opportunity for members of

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the public to respond to the finding. The filing of a Negative Declaration shall be done pursuant to Section 69.0309 of this Article.

SEC. 69.0309 FILING OF ENVIRONMENTAL IMPACT REPORT OR NEGATIVE DECLARATION

Regardless of the Director's determination, he shall file, as applicable, either a draft Negative Declaration or draft Environmental Impact Report with the City Clerk. 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 Article for public review and 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 and the Secretary for Resources "Guidelines for Implementation of the California Environmental Quality Act of 1970."

SEC. 69.0310 APPEALS PERIOD

If there are no adverse written comments received during the public review period, upon expiration of said period, the draft Environmental Impact Report or Negative Declaration shall become the final environmental document. If there are adverse written comments

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received during the public review period, the Director, at the expiration of the public review period, shall file with the City Clerk the draft Environmental Impact Report or Negative Declaration, containing the written comments received, and the Director's response to such comments. At that time, the City Clerk shall publish legal notice announcing a ten-day appeals period during which any person may appeal the adequacy and/or sufficiency of the draft report by filing a letter of appeal with the City Clerk. An appeal must specify, in detail, the basis upon which the appeal is being made. Such appeal shall speak to specific errors or omissions in the draft Environmental Impact Report or Negative Declaration. Appeals shall be set for review by the Environmental Appeals Board. If no appeal is taken within the above time period, the draft Environmental Impact Report or Negative Declaration shall become officially 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 seven 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 three appointments for one year each ending March 1, 1974, and four appointments for two years each ending March 1, 1975. 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 representative from each of the following areas: physical sciences, environmental sciences, social sciences, citizens' groups, private developers, and two persons not necessarily associated with any of the foregoing areas.

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 regularly once a month or more often if necessary.

c. The Board is charged with the following duties:

(1) Reviewing Environmental Impact Reports and Negative Declarations to determine the accuracy and/or sufficiency of such reports when such reports are questioned upon appeal.

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(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. Modify or revise the Environmental Impact Report or Negative Declaration and in so doing may require the appellant, applicant or the Director to provide all necessary information and data. At such time as the Board is satisfied with the Environmental Impact Report or Negative Declaration, it shall become final.

b. 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 prepared.

c. Upon review, the Appeals Board may approve the Environmental Impact Report or Negative Declaration as filed, whereupon it shall become officially final.

In its review, the Board shall restrict itself solely to the question of the accuracy and/or sufficiency of the information contained in the report. Upon final

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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. City Engineer in considering a land development permit. Appeals thereafter may be taken pursuant to Section 62.0413.

b. Subdivision Review Board in considering a

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tentative map. Appeals thereafter may be taken pursuant to Section 102.0205.

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

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

e. Planning Commission on any appeal and in considering a Zoning, Conditional Use Permit, Planned Unit Development or Planned Residential Development. Appeals thereafter may be taken pursuant to Sections 101.0506E and 101.0900G.

f. City Council prior to advertisement of bids on any public projects or on any appeal and in considering approval of any zoning, Conditional Use Permit, Planned Unit Development or Planned Residential Development.

g. 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 14 days of the filing of a final Environmental Impact Report with the City Clerk or 14 days after any decision of the Appeals Board is final.

Section 5. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By

  
J. S. Wiegand, Deputy

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Passed and adopted by the Council of The City of San Diego on FEB 21 1974  
 by the following vote:

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"/>
Lee Hubbard	<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"/>
Jim Ellis	<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 *Yolanda Limon*, 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

**FEB 8 1974**

**FEB 21 1974**

~~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 *Yolanda Limon*, Deputy.

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Office of the City Clerk, San Diego, California		
Ordinance Number	<b>11248</b>	Adopted <b>FEB 21 1974</b>
		(SD)

RECEIVED  
CITY CLERK'S OFFICE

1974 MAR 22 AM 9:22 *ej*

SAN DIEGO, CALIF.

ATTORNEY (S)

CITY OF SAN DIEGO,  
202 "C" St., 12th Floor,  
San Diego, California

**CERTIFICATE OF PUBLICATION**

No.

IN THE MATTER OF

ENVIRONMENTAL IMPACT REPORT PROCEDURES

MAR 22 1974 *ej*

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. 11248 (New Series)

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

February 28, 1974

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

MARCH 18, 1974

*Patricia M. Applestill*  
(Signature)

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**ORDINANCE NO. 1118**

(New Series)

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 9, DIVISIONS 1, 2 and 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 69.0103, 69.0201, 69.0301, 69.0303, 69.0304, 69.0305, 69.0306, 69.0307, 69.0308, 69.0309, 69.0310, 69.0311, 69.0312 AND 69.0313, AND BY ADDING SECTION 69.0205 RELATING TO ENVIRONMENTAL IMPACT REPORT PROCEDURES.

WHEREAS, the revised State regulations entitled "Guidelines for the Implementation of the California Environmental Quality Act of 1970" were promulgated on December 17, 1973; and

WHEREAS, public agencies must bring their local environmental ordinances and guidelines into conformity with the aforesaid revised State guidelines; and

WHEREAS, certain changes in the procedures relating to the processing of environmental documents have become necessary and desirable; NOW, THEREFORE,

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

Section 1. That Chapter VI, Article 9, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 69.0103 to read as follows:

**SEC. 69.0103 DEFINITIONS**

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

a. Activity—see definition of "project," below.

b. Applicant—any person who proposes to carry out a project which needs a lease, permit, license, certificate, or other entitlement to use or financial assistance from one or more public agencies when that person applies for the governmental approval or assistance.

c. Approval—the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval. In connection with private activities, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.

d. California Environmental Quality Act (CEQA)—California Public Resources Code, Sections 21000 through 21174.

e. Categorical Exemption—an exception from the requirements of CEQA for a class of projects based on a finding by the Secretary for Resources and the City of San Diego that the class of projects does not have a significant effect on the environment.

f. Discretionary Project—an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of the public agency or body in the process of approving or determining to carry out a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

g. Emergency—a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

h. Environment—the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, objects of historic or aesthetic significance.

i. Environmental Documents—means draft and final Environmental Impact Reports, Initial studies, Negative Declarations, Notices of Completion and Notices of Determination.

j. Environmental Impact Analysis (EIA)—a study submitted by the applicant which includes a detailed analysis of a project's environmental effects. The EIA must contain the information outlined in Section 69.0306 of this Article and an Environmental Assessment Form. After independent evaluation by the Environmental Quality Department, the EIA may be considered as a draft EIR.

k. Environmental Impact Report (EIR)—a detailed statement setting forth the environmental effects and considerations pertaining to a project as specified in Section 21100 of the California Environmental Quality Act.

(1) Draft EIR means an EIR containing the information specified in Section 69.0306 of this Article.

(2) Final EIR means an EIR containing the information specified in Section 69.0306 of this Article, a section for comments received in the consultation process, and the response of the lead agency to the comments received.

l. Environmental Impact Statement (EIS)—an environmental impact report prepared pursuant to the National Environmental Policy Act (NEPA). The Federal Government uses the term EIS in the place of the term EIR which is used in CEQA.

m. Feasible—capable of being accomplished in a successful manner by reasonably available, economic, and workable means.

n. Initial Study—a preliminary analysis prepared by the lead agency pursuant to Section 69.0304 of this Article to determine whether an EIR or a Negative Declaration must be prepared.

o. Lead Agency—the public agency which has the principal responsibility for preparing environmental documents and for carrying out or approving a project which may have a significant effect on the environment.

p. Local Agency—any public agency other than a state agency, board or commission. Local agency includes but is not limited to cities, counties, charter cities and counties, districts, school districts, special district, redevelopment agencies and any board, commission, or organizational subdivision of a local agency when so designated by order or resolution of the governing legislative body of the local agency.

q. Ministerial Projects—include those activities defined as projects which are undertaken or approved by a governmental decision which a public officer or public agency makes upon a given set of facts in a prescribed manner in obedience to the mandate of law. In such cases, the officer or public agency has no discretion.

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...would not have a significant effect on the environment and therefore does not require an EIR.  
h. Notice of Completion—a brief report filed with the Secretary of Resources as soon as a lead agency has completed a draft EIS and is prepared to send out copies for review.  
i. Notice of Determination—a brief notice to be filed by a public agency when it approves or determines to carry out a project which is subject to the requirements of CEQA.  
j. Person—includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, the State, and any of the agencies' political subdivisions of such entities.

v. Project:  
(1) The whole of an action, resulting in physical impact on the environment, directly or ultimately, that is any of the following:

- (a) An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption of local General Plans or elements thereof pursuant to Government Code Sections 65100 through 65700.
  - (b) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
  - (c) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
- (2) Project does not include:  
(a) Anything specifically exempted by state law or municipal law.  
(b) Proposals for legislation to be enacted by the State Legislature.  
(c) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, emergency repairs to public service facilities, general policy and procedure making (except as they are applied to specific instances covered above), feasibility or planning studies.  
(d) The submittal of proposals to a vote of the people of the State or of a particular community.

(3) The term "project" refers to the underlying activity and not to the governmental approval process.

w. Public Agency—includes any state agency, board or commission and any local or regional agency, as defined in this Article. It does not include the courts of the State. This term does not include agencies of the Federal Government.

x. Responsible Agency—a public agency which proposes to undertake or approve a project, but is not the lead agency for the project. It includes all public agencies other than the lead agency which have approval power over the project.

y. Significant Effect—a substantial adverse impact on the environment. The determination of whether a particular project will or will not have a significant effect on the environment shall be made in accordance with those procedures set forth in Division 3 of this Article, applicable State statutes and regulations, and other applicable City of San Diego ordinances and regulations.

Section 2, that Chapter VI, Article 9, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 68.0201 to read as follows:

**SEC. 68.0201. ONGOING PROJECTS**

a. A public project as defined in this Article, approved prior to November 23, 1970, shall require an Environmental Impact Report or a Negative Declaration if the project may have a significant effect on the environment, and either of the following conditions exist:

- (1) A substantial portion of public funds allocated for the project have not been spent and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that this Section (1) shall not apply to projects which come under the jurisdiction of the National Environmental Policy Act (NEPA) and which, through regulations promulgated under NEPA, were held to be too far advanced at the time of NEPA's effective date to require an EIS in compliance with those regulations.
- (2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

b. A private project as defined in this Article as it relates to contracts where the permit or other entitlement was issued, or the contract approved, prior to December 5, 1972, shall not require an EIR or Negative Declaration, subject to the following provisions:

- (1) CEQA expressly does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this interim period.
- (2) Where the issuance or approval occurred prior to December 5, 1972 and prior to said date the project was legally commenced for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 24170 of CEQA.
- (3) Where a project involving the issuance of a lease, permit, license, certificate or other entitlement to use has been granted by discretionary governmental approval for part of the project prior to December 5, 1972, and another or additional discretionary governmental approvals after December 5, 1972, the project shall be bound by special rules set forth in Section 24170 of CEQA.

(4) Where a project involving the issuance of a lease, permit, license, certificate or other entitlement to use has been granted by discretionary governmental approval for part of the project prior to December 5, 1972, and another or additional discretionary governmental approvals after December 5, 1972, the project shall be bound by special rules set forth in Section 24170 of CEQA.

Chapter VI, Article 9, Division 3, of the San Diego Municipal Code, and the same is hereby amended by adding Section 69.0206 to read as follows:

**SEC. 69.0206 ENVIRONMENTAL IMPACT REPORTS PROCESSED BETWEEN APRIL 3, 1973 AND FEBRUARY 15, 1974**

Any Environmental Impact Report which has been completed or on which substantial work has been performed on or before February 15, 1974, in compliance with the provisions of this Article and The City of San Diego's "Guidelines for Implementation of the California Environmental Quality Act and for Processing Environmental Impact Reports and Negative Declarations," as adopted April 3, 1973, shall be deemed in compliance with the City's "Guidelines for Implementation of the California Environmental Quality Act of 1970," as adopted February, 1974, no further Environmental Impact Report shall be required except as provided in Section 69.0201(a) and (b). Section 4, that Chapter VI, Article 9, Division 3, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 69.0301, 69.0303, 69.0304, 69.0305, 69.0306, 69.0307, 69.0308, 69.0309, 69.0310, 69.0311, 69.0312 and 69.0313 to read as follows:

**SEC. 69.0301 ENVIRONMENTAL IMPACT REPORTS REQUIRED: PUBLIC AND PRIVATE PROJECTS: NOTICE OF APPROVAL**

a. The City of San Diego shall not authorize, approve or allow any discretionary project, activity, development or changes in zone to be carried out which may have a significant effect on the environment unless an Environmental Impact Report has first been prepared, considered, filed and has become officially final, pursuant to this Article. Prior to the approval or disapproval of a proposed discretionary project, activity, development or change in zone, the City shall determine whether the proposed activity or project will have a significant effect on the environment. Said determination of environmental significance shall be made pursuant to the objectives, criteria, standards, and procedures established by this Article, the Director's guidelines referred to in Section 69.0106, those promulgated by the State Office of the Secretary for Resources, and those set forth in the California Environmental Quality Act of 1970, as amended.

b. This Article shall not apply to ministerial projects proposed to be carried out or approved by The City of San Diego. All other permits, licenses, leases or other entitlements for use, authorizations or approvals of a discretionary nature are subject to the requirements of this Article.

c. Whenever The City of San Diego approves or determines to carry out a project which is subject to the provisions of this Article, it shall file notice of such approval or determination with the County Clerk of the county or counties in which the project will be located.

**SEC. 69.0303 APPLICATION**  
Prior to the issuance of any permit, approval, authorization or other entitlement for use of a discretionary nature subject to the provisions of this Article, the appropriate City department or applicant shall prepare, complete, and submit an Environmental Assessment or an Environmental Impact Analysis accompanied by appropriate plans to the Director for his review and evaluation in determining the environmental significance of the proposed project or activity.

If at the time the Environmental Assessment is submitted the applicant or City department has reason to believe that the proposed project may have a significant effect on the environment, the submission of an Environmental Impact Analysis together with the Environmental Assessment shall be permitted.

An Environmental Impact Analysis may be required when the Director determines that the proposed project will have a significant effect on the environment.

**SEC. 69.0304 EVALUATION BY THE DIRECTOR OF THE ENVIRONMENTAL QUALITY DEPARTMENT - MANDATORY FINDINGS**

a. The Director and his staff shall review and evaluate the Environmental Assessment along with accompanying documents and plans to determine if the proposed project may have a significant effect on the environment. To assist the Director in his evaluation of a proposed project, he may require the applicant or City department to supply him with whatever information he deems necessary to adequately determine the environmental consequences. In his evaluation, the Director shall determine whether:

- (1) The proposed project will or will not have any possible significant effect;
- (2) The proposed project or activity is a "project" within the meaning of Section 69.0103, paragraph v.;
- (3) The proposed project is ministerial, emergency or discretionary in nature;
- (4) The proposed project or activity is categorically exempt from the Article's application;
- (5) The proposed project or activity ordinarily would be expected to have a significant effect on the environment, but due to circumstances peculiar to the specific project, it will not have a significant effect and thus qualify for a Negative Declaration as defined herein; or
- (6) The proposed project or activity will have a significant effect on the environment and thus require the preparation of an Environmental Impact Report.

b. Notice of the Director's determination shall be transmitted to the applicant or originating department in writing.

c. In every case where any of the following conditions are found to exist as a result of a project, the project shall be found to have impacts with a significant effect on the environment.

- (1) Impacts which have the potential to degrade the quality of the environment or curtail the range of the environment.
- (2) Impacts which achieve short-term, to the disadvantage of long-term, environmental goals. A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.

(3) Impacts for a project which are individually limited, but cumulatively considerable. A project may affect two or more separate resources where the impact on each resource is relatively small. If the effect of the total of those impacts on the environment is significant, an EIR must be prepared. This mandatory requirement does not apply to two or more separate

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**69.0303 PREPARATION OF ENVIRONMENTAL IMPACT REPORT**

a. **General.** If the Director finds and determines after his initial evaluation that the proposed project or activity may have a significant effect on the environment, he must prepare or cause to be prepared an Environmental Impact Report. No approval shall be given or granted by the City for any particular project or activity until such report is complete and final and has been considered by the appropriate decision-making body. In the preparation of the report, the Director may require the applicant or originating City department to submit an Environmental Impact Analysis and whatever other information he deems necessary in order to adequately assess the environmental consequences of the proposed project. The Environmental Impact Analysis submitted by an applicant or City department may be considered by the Director as a draft Environmental Impact Report after receiving independent evaluation and analysis. The draft Environmental Impact Report which is sent out for public review must reflect the independent judgment of the Director. The accuracy and objectivity of the draft Environmental Impact Report is the responsibility of the Director and shall reflect his independent judgment regarding the project.

b. **Time Completion.** The preparation of an Environmental Impact Report shall be accomplished within a reasonable time period, depending, however, upon the nature and circumstances of the particular project involved.

c. **Consultation with Other Public Agencies and Private Citizens.** The Director shall, prior to completing an Environmental Impact Report, consult with and obtain comments from any public agency which has jurisdiction by law with respect to the particular project and may consult with any person who has special expertise with respect to environmental matters.

Additionally, the Director shall solicit and obtain the recommendations and viewpoints of any City department that may be affected by the proposed project and those private persons and organizations which have expressed an interest in the environmental impact of a proposed project. This shall be effected during preparation of the report.

d. **Draft Environmental Impact Report.** As soon as the Director has completed his draft Environmental Impact Report or has received an Environmental Impact Analysis which, after independent evaluation and analysis, he desires to treat as a draft Environmental Impact Report but before any copies are distributed for review, he shall transmit an official notice to the Secretary for Resources indicating that the draft report is completed.

Additionally, legal notice indicating that the draft report is completed shall be published by the City Clerk, and the Director shall take all necessary steps to insure that copies of the draft Environmental Impact Report are distributed for review and comment to appropriate public agencies and to members of the public requesting them. Members of the general public requesting copies of the Environmental Impact Report shall be charged for the actual cost of reproducing such copies. All comments, recommendations and viewpoints shall be included in the Environmental Impact Report even if the Director finds no merit in them. The report shall also contain the Director's opinion with respect to all such comments. Such consultation shall be a continuous process until such time as the Environmental Impact Report has become officially final.

e. **Final Environmental Impact Report.** The draft Environmental Impact Report shall become officially final upon expiration of the public review period if the draft report is unchallenged during that period, or upon expiration of the appeals period referred to in Section 69.0810, or upon approval by the Environmental Appeals Board. The final report shall contain those elements set forth in Section 69.0304, comments received through the consultation process described in paragraphs c. and d. of this section, above, the Director's responses to such comments, and the identity of all persons, public and private, consulted with regard to said report.

f. **Submission to Decision-Making Authority.** The official final Environmental Impact Report shall be presented to the appropriate decision-making authority. In those instances wherein The City of San Diego is the lead agency, the decision-making authority shall certify that the final Environmental Impact Report or final Negative Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) and the State guidelines pursuant thereto, and shall certify that the Environmental Impact Report or Negative Declaration has been reviewed and considered prior to making a decision to approve or disapprove the project. In those instances wherein The City of San Diego is the responsible agency as defined in Section 69.0103, paragraph x, the decision-making authority shall certify that the lead agency's Environmental Impact Report or Negative Declaration has been reviewed and considered prior to making a decision to approve or disapprove the project.

After making a decision on the project, the appropriate authority shall cause a Notice of Determination to be filed with the County Clerk of the county or counties in which the project will be located.

**69.0304 CONTENTS OF THE REPORT**

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

- a. A description of the proposed project.
- b. A description of the environmental setting.
- c. The environmental impact of the proposed project.
- d. Any adverse environmental effects which cannot be avoided if the proposal is implemented.
- e. Mitigation measures proposed to minimize the impact.

f. Alternatives to the proposed action including no project.

g. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

- a. Any irreversible environmental changes which would be involved in the proposed action should it be implemented.
- b. The growth-inducing impact of the proposed action.

h. **PERMIT FEES.** In order to recover the estimated costs incurred in preparing and reviewing Environmental Impact Reports and Negative Declarations, the City Manager shall prepare and submit to the Council an appropriate fee schedule for such reports and declarations.

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**SECTION 09.0309. DETERMINATION THAT PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT**

If the Director determines that the proposed activity or project, due to circumstances peculiar to the specific project will not have a significant effect on the environment, then he shall prepare a draft Negative Declaration which shall not exceed one page in length. Such declaration shall include a description of the project as proposed and a brief statement of reasons to support the finding that the project will not have a significant effect on the environment. The Negative Declaration shall be filed with sufficient time before the project is approved or disapproved to provide an opportunity for members of the public to respond to the finding. The filing of a Negative Declaration shall be done pursuant to Section 09.0309 of this Article.

**SECTION 09.0310. FILING OF ENVIRONMENTAL IMPACT REPORT OR NEGATIVE DECLARATION**

Regardless of the Director's determination, he shall file, as required, either a draft Negative Declaration or draft Environmental Impact Report with the City Clerk. 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 Article for public review and appeal procedures. Such publication shall be as required by the City Clerk. This requirement is in addition to the requirements imposed by the California Environmental Impact Statement Act of 1970, as amended and the Secretary for Resources' guidelines for implementation of the California Environmental Impact Statement Act of 1970.

**SECTION 09.0311. APPEALS PERIOD**

If there are adverse written comments received during the public review period, upon expiration of said period, the draft Environmental Impact Report or Negative Declaration shall become the final environmental document. If there are adverse written comments received during the public review period, the Director, at the expiration of the public review period, shall file with the City Clerk the draft Environmental Impact Report or Negative Declaration, containing the Director's response to such comments, and the City Clerk shall publish legal notice announcing a ten-day appeals period during which any person may appeal the accuracy and/or sufficiency of the draft report by filing a letter of appeal with the City Clerk. An appeal must specify, in detail, the basis upon which the appeal is being made. Such appeal shall speak to specific errors or omissions in the draft Environmental Impact Report or Negative Declaration. Appeals shall be set for review by the Environmental Appeals Board. If no appeal is taken within the above time period, the draft Environmental Impact Report or Negative Declaration shall become officially 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.

**SECTION 09.0312. ENVIRONMENTAL APPEALS BOARD**

There is hereby created an Environmental Appeals Board which shall consist of seven 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 three appointments for two years each ending March 1, 1974, and four appointments for one year each ending March 1, 1975. 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 representative from each of the following areas: physical sciences, environmental sciences, social sciences, citizens' groups, private developers, and two persons not necessarily associated with any of the foregoing areas. 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.

The Board shall adopt such rules and regulations consistent with the law for the government of its business and procedures. The Board shall meet regularly once a month or more often if necessary. The Board is charged with the following duties:  
(1) Reviewing Environmental Impact Reports and Negative Declarations to determine the accuracy and/or 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.

**SECTION 09.0313. ENVIRONMENTAL APPEALS BOARD PROCEDURES**

The Environmental Appeals Board may, upon receipt of a written appeal:  
1. Modify or revise the Environmental Impact Report or Negative Declaration and in so doing may require the applicant, applicant or the Director to provide all necessary information and data. At such time as the Board is satisfied with the Environmental Impact Report or Negative Declaration, 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 prepared.  
3. Upon review, the Appeals Board may approve the Environmental Impact Report or Negative Declaration as filed, whereupon it shall become officially final.  
4. In its review, the Board shall restrict itself solely to the question of the accuracy and/or sufficiency of the information contained in the report. Upon final acceptance by the Appeals Board of the Environmental Impact Report or Negative Declaration, such report or declaration shall become final.

...the project or activity proposed would result in an adverse impact on the environment which is unreasonable in light of the expected benefits, 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, to be derived from approving the project.

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

a. City Engineer in considering a land development permit. Appeals thereafter may be taken pursuant to Section 62.0413.

b. Subdivision Review Board in considering a tentative map. Appeals thereafter may be taken pursuant to Section 102.0206.

c. Zoning Administrator in considering any variance or other matter before him. Appeals thereafter may be taken pursuant to Section 101.0604.

d. Board of Zoning Appeals on any appeal. Appeals thereafter may be taken pursuant to Section 101.0606.

e. Planning Commission on any appeal and in considering a zoning, Conditional Use Permit, Planned Unit Development or Planned Residential Development. Appeals thereafter may be taken pursuant to Sections 101.0606E and 101.0600C.

f. City Council prior to advertisement of bids on any public projects or on any appeal and in considering approval of any zoning, Conditional Use Permit, Planned Unit Development or Planned Residential Development.

g. 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 14 days of the filing of a final Environmental Impact Report with the City Clerk or 14 days after the decision of the Appeals Board is final.

Section 5. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on February 8, 1974.

Passed and adopted by the Council of The City of San Diego on February 21, 1974.

AUTHENTICATED BY:  
PETE WILSON,  
Mayor of The City of San Diego, California.  
EDWARD NIELSEN,  
City Clerk of The City of San Diego, California.  
BY: YOLANDA LINDA, Deputy.

Enacted February 21, 1974.