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ORDINANCE NO. 12203
(New Series)

NOV. 9 1977

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 9, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING ARTICLE 9, AND ALL DIVISIONS AND SECTIONS ENUMERATED THEREIN, RELATING TO THE ENVIRONMENTAL IMPACT REPORT PROCEDURAL ORDINANCE, AND BY ADDING A NEW ARTICLE 9, AND THE ACCOMPANYING DIVISIONS AND SECTIONS THEREOF, RELATING TO THE ENVIRONMENTAL QUALITY ORDINANCE.

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

Section 1. That Chapter VI of the San Diego Municipal Code be and it is hereby amended by repealing Article 9, and its title Environmental Impact Report Procedural Ordinance, and all divisions and sections enumerated therein.

Section 2. That Chapter VI of the San Diego Municipal Code be and it is hereby amended by adding a new Article 9, entitled Environmental Quality Ordinance, Divisions 1 through 7, and the accompanying sections enumerated below, to read as follows:

ARTICLE 9

ENVIRONMENTAL QUALITY ORDINANCE

DIVISION 1

PURPOSE, INTENT AND POLICY

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SEC. 69.0101 PURPOSE

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Pursuant to the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., herein "the Act") and State EIR Guidelines (Administrative Code, Section 15000, et seq., herein "the Guidelines"), it is incumbent upon the City of San Diego as a public agency

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to protect the interest of the public in securing, maintaining, preserving, protecting, rehabilitating and enhancing the environment within the City of San Diego. This article has been enacted by the Council to attain that purpose, and to give effect to the Act and the Guidelines within the City of San Diego.

SEC. 69.0102 CITATION OF ARTICLE

This article shall be known and may be cited as the "Environmental Quality Ordinance of the City of San Diego."

SEC. 69.0103 DECLARATION OF COUNCIL FINDINGS AND INTENT

The Council, concurring with the State Legislature, finds and declares as follows:

A. The maintenance of a quality environment for the people of this City now and in the future is a matter of city-wide concern.

B. It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

C. There is a need to understand the relationship between the maintenance of high quality ecological systems and the general welfare of the people of the City, including their enjoyment of the natural resources of the City.

D. The capacity of the environment is limited, and it is the intent of the Council that City agencies take immediate steps to identify any critical thresholds for the health and safety of the people of the City and take all

coordinated actions necessary to prevent such thresholds being reached.

E. Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

F. The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.

G. It is the intent of the Council that all City agencies which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage.

SEC. 69.0104 DECLARATION OF CITY POLICY: PROTECTION OF ENVIRONMENTAL QUALITY

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City to:

A. Develop and maintain a high-quality environment now and in the future, and take all actions necessary to protect, rehabilitate, and enhance the environmental quality of the City.

B. Take all actions necessary to provide the people of this City with clean air and water, enjoyment of aesthetic, natural, scenic and historic environmental qualities, and freedom from excessive noise.

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C. Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California and San Diego history.

D. Ensure that the long-term protection of the environment shall be the guiding criterion in public decisions.

E. Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.

F. Require City agencies at all levels to develop standards and procedures necessary to protect environmental quality.

G. Require City agencies at all levels to consider qualitative factors as well as economic and technical factors, and long-term benefits and costs in addition to short-term benefits and costs, and to consider alternatives to proposed actions affecting the environment.

SEC. 69.0105 DECLARATION OF CITY POLICY: APPROVAL OF PROJECTS

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

A. City agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially

lessen the significant environmental effects of such projects.

B. The procedures required by this article are intended to assist City and other public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.

C. In the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved notwithstanding one or more significant effects thereof.

SEC. 69.0106 DECLARATION OF CITY POLICY: USE OF ENVIRONMENTAL IMPACT REPORTS

In order to achieve the objectives set forth in Section 69.0105 the Council, concurring with the State Legislature, finds and declares that the following policy shall apply to the use of environmental impact reports:

A. The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.

B. Each City agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.

C. In the event that specific economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of the City agency, provided that the project is otherwise permissible under applicable laws and regulations.

D. In applying the policies of subsections B and C to individual projects, the responsibility of a City agency which is functioning as a lead agency shall differ from that of a City agency which is functioning as a responsible agency. A City agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A City agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve.

SEC. 69.0107 DECLARATION OF CITY POLICY: ENVIRONMENTAL
REVIEW PROCESS

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

A. City agencies integrate the requirements of this article with planning and environmental review procedures otherwise required by law or by local practice so that all such procedures, to the maximum feasible extent, run concurrently, rather than consecutively.

B. Documents prepared pursuant to this article be organized and written in such a manner that they will be meaningful and useful to decision-makers and to the public.

C. Environmental impact reports omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

D. Information developed in individual environmental impact reports be incorporated into a data base which can be used to reduce delay and duplication in preparation of subsequent environmental impact reports.

E. Information developed in environmental impact reports covering larger geographical areas be used to contribute to information required in specific environmental impact reports.

SEC. 69.0108 INCORPORATION OF THE ACT BY REFERENCE

The California Environmental Quality Act, insofar as applicable, is herein incorporated and made a part of this article as fully as though set forth herein, and all officers and employees of the City of San Diego are hereby authorized and directed to enforce and comply with each and every applicable provision of said Act.

DIVISION 2

DEFINITIONS

SEC. 69.0201 GOVERNING DEFINITIONS

Unless the context otherwise requires, the definitions in this division shall govern the construction of this article.

SEC. 69.0202 APPROVAL

"Approval" means the decision by a City agency which commits the City 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 City agency according to its rules, regulations, and ordinances.

In connection with private activities, approval occurs upon the earliest commitment to issue or the issuance by a City 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.

SEC. 69.0203 CATEGORICAL EXEMPTION

"Categorical exemption" means an exception from the requirements of the Act for a class of projects based on a finding by the California Secretary for Resources that the class of projects does not have a significant effect on the environment.

SEC. 69.0204 CITY

"City" means the City of San Diego, a municipal corporation established by charter pursuant to the constitution and laws of the State of California.

"City" also means the area within the territorial limits of the City of San Diego and such territory outside of this City over which the City has jurisdiction or control by

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virtue of any constitutional or charter provisions, any law, or by reason of ownership or control of property.

SEC. 69.0205 CITY AGENCY

"City agency" means any agency, board, commission, committee, office, department, division or other organizational unit or subunit of the City of San Diego municipal government.

SEC. 69.0206 DISCRETIONARY PROJECT

"Discretionary project" means an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of a City agency in the process of approving or disapproving a particular activity, as distinguished from situations where the City agency merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations.

SEC. 69.0207 EMERGENCY

"Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

SEC. 69.0208 ENVIRONMENT

"Environment" means the physical conditions which exist within the area which will be affected by a proposed project, including but not limited to land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.

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SEC. 69.0209 ENVIRONMENTAL IMPACT REPORT

"Environmental impact report" means a written statement setting forth in detail the matters specified in Section 69.0501. An environmental impact report also includes any comments which are obtained or which are required to be obtained pursuant to this article.

An environmental impact report is an informational document which, when its preparation is required by this article, shall be considered by every City or other public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide City and other public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.

SEC. 69.0210 FEASIBLE

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

SEC. 69.0211 INITIAL STUDY

"Initial study" means a preliminary analysis prepared by the lead agency to determine whether an environmental impact report or a negative declaration must be prepared.

SEC. 69.0212 LEAD AGENCY

"Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.

SEC. 69.0213 LOCAL AGENCY

"Local agency" means any public agency other than a state agency, board, or commission. For purposes of this article a redevelopment agency and a local agency formation commission are local agencies, and neither is a state agency, board, or commission.

SEC. 69.0214 MINISTERIAL PROJECT

"Ministerial project" means an activity defined as a project which is undertaken or approved by a governmental decision which a City agency makes upon a given state of facts in a prescribed manner in obedience to the mandate of legal authority. With such a project, the City agency must act upon the given facts without regard to its own judgment or opinion concerning the propriety or wisdom of the act although the statute, ordinance or regulation may require, in some degree, a construction of its language by the agency. A ministerial decision involves only the use of fixed standards or objective measurements without personal judgment.

SEC. 69.0215 NEGATIVE DECLARATION

"Negative declaration" means a written statement briefly describing the reasons that a proposed project will

not have a significant effect on the environment and does not require the preparation of an environmental impact report.

SEC. 69.0216 PERSON

"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 and political subdivisions of such entities.

SEC. 69.0217 PROJECT

"Project" means the whole of an action which has a potential for resulting in a physical change in the environment, directly or ultimately, that is any of the following:

- A. An activity directly undertaken by any City agency.
- B. An activity undertaken by a person which is supported in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more City 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 City agencies.

The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

SEC. 69.0218 PUBLIC AGENCY

"Public agency" includes any state agency, board, or commission, any county, city and county, city, regional

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agency, public district, redevelopment agency, or other political subdivision.

SEC. 69.0219 RESPONSIBLE AGENCY

"Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.

SEC. 69.0220 SIGNIFICANT EFFECT ON THE ENVIRONMENT

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment.

DIVISION 3

APPLICATION TO PROJECTS

SEC. 69.0301 PROJECTS TO WHICH THIS ARTICLE APPLIES

Except as otherwise provided in this article, this article shall apply to discretionary projects proposed to be carried out or approved by any City agency.

SEC. 69.0302 PROJECTS EXEMPT FROM THIS ARTICLE

Except as otherwise provided in this article, this article shall not apply to the following:

A. Ministerial projects proposed to be carried out or approved by any City agency.

B. Emergency repairs to public service facilities necessary to maintain service.

C. Projects undertaken, carried out, or approved by any City agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a

state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

D. Specific actions necessary to prevent or mitigate an emergency.

E. Feasibility or planning studies for possible future actions which have not been approved, adopted or funded.

F. Categorically exempt projects proposed to be carried out or approved by any City agency.

Projects exempted by this section from the preparation of an environmental impact report or negative declaration shall nevertheless include consideration of environmental factors.

SEC. 69.0303 PROJECTS TO WHICH NEPA APPLIES

When an environmental impact statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 and implementing regulations thereto, all or any part of such statement may be submitted in lieu of all or any part of an environmental impact report required by this article, provided that such statement, or the parts thereof so used, shall comply with the requirements of this article and the procedures adopted pursuant thereto.

SEC. 69.0304 REDEVELOPMENT PROJECTS

For all purposes of this article, all public and private activities or undertakings pursuant to or in furtherance of a redevelopment plan shall be deemed a single project.

SEC. 69.0305 ENVIRONMENTAL REPORTS PURSUANT TO LOCAL
AUTHORITY.

Notwithstanding the exemption of certain projects from the requirement for an environmental impact report or negative declaration, nothing in the Act, the Guidelines or this article limits the authority and responsibility of any City agency to obtain and consider data and information which will assist such agency in considering the environmental consequences of any project it proposes to carry out or approve.

Any City agency having jurisdiction with respect to a proposed project may, when deemed in the public interest, request the Environmental Quality Division of the Planning Department to conduct such analyses and prepare such reports as will assist such City agency in its consideration of the environmental consequences of the proposed project. Such staff reports shall not be bound by the substantive and procedural requirements applicable to environmental impact reports and negative declarations, nor shall the fees required by Section 69.0405 apply. However, the person proposing such project may be required to submit data and information necessary to the preparation of such report.

DIVISION 4

GENERAL RESPONSIBILITIES

SEC. 69.0401 REQUIREMENT FOR ENVIRONMENTAL DOCUMENTS

Pursuant to the Act and the Guidelines, all public agencies are required to prepare, or cause to be prepared by contract, and certify the completion of an environmental impact report on any project they propose to carry out or

approve which may have a significant effect on the environment. In the event that a public agency determines that a proposed project, not otherwise exempt from the provisions of the Act and Guidelines, does not have a significant effect on the environment, such public agency is required to adopt a negative declaration to that effect. Such documents must be prepared and considered prior to the public agency decision to carry out or approve the project.

SEC. 69.0402 PREPARATION BY LEAD AGENCY

Pursuant to the Act and the Guidelines, when a project is to be carried out or approved by two or more public agencies, the determination of whether the project may have a significant effect on the environment shall be made by the lead agency, and such agency shall prepare, or cause to be prepared by contract, the environmental impact report or negative declaration, if such report or declaration is required. In the event that a dispute arises as to which is the lead agency, any public agency may submit the question to the State Office of Planning and Research, and the Office of Planning and Research shall designate the lead agency, giving due consideration to the capacity of such agency to adequately fulfill the requirements of the Act and the Guidelines.

SEC. 69.0403 ENVIRONMENTAL QUALITY DIVISION PREPARATION OF REPORTS AND DECLARATIONS

Any environmental impact report or negative declaration prepared pursuant to the requirements of this article shall be prepared directly by, or under contract to, the Environmental Quality Division of the Planning Department. In

carrying out this responsibility, the Environmental Quality Division of the Planning Department shall strictly observe the independence and objectivity required of it pursuant to Section 22.2402 of the Municipal Code.

This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information to the Environmental Quality Division of the Planning Department. Such information may be submitted in any format and may be included in whole or in part in any such report or declaration.

SEC. 69.0404 SUBMISSION OF INFORMATION

The Environmental Quality Division of the Planning Department may require any person proposing a project to which this article applies to submit data and information which may be necessary to determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report or negative declaration.

SEC. 69.0405 FEES FROM PERSON PROPOSING PROJECT

The Environmental Quality Division of the Planning Department shall charge and collect a reasonable fee from any person, other than a public agency, proposing a project subject to the provisions of this article in order to recover the estimated costs incurred by the City in preparing an environmental impact report or negative declaration for such project. The Planning Director shall prepare and submit to the Council an appropriate fee schedule. Such schedule shall

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become effective on approval by Council resolution, and may be similarly amended as necessary.

SEC. 69.0406 INCLUSION WITH REGULAR PROJECT REPORTS

City agencies shall include the environmental impact report or negative declaration with the regular project report used in the existing project approval process. It shall be available to the Council. It shall also be available for inspection by the general public who may secure a copy thereof by paying for the actual cost of such a copy. It shall be filed with the appropriate local planning agency of any city, county, or city and county which will be affected by the project.

SEC. 69.0407 FINDINGS IN CONNECTION WITH PROJECT APPROVAL

A. No City agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects of the project unless the City agency makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding.

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final environmental impact report.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City agency making the finding; and further, that such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

B. The findings required by subsection A shall be supported by substantial evidence in the record.

C. The findings in subsection A2 shall not be made if the City agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives.

SEC. 69.0408 REVIEW OF CITY ACTIVITIES AFFECTING THE ENVIRONMENT

All City agencies, in cooperation with the Environmental Quality Division of the Planning Department, shall systematically review and evaluate the ordinances, plans, policies, standards, criteria, procedures and practices under which they conduct their activities which may affect the quality of the environment and shall make or propose such changes in their activities that will further the purpose, intent and policies of this article.

DIVISION 5

ENVIRONMENTAL IMPACT REPORTS

and NEGATIVE DECLARATIONS

SEC. 69.0501 CONTENTS OF AN ENVIRONMENTAL IMPACT REPORT

A. An environmental impact report shall include a detailed statement setting forth the following:

1. A description of the project.

2. A description of the environmental setting of the project.

3. The significant environmental effects of the proposed project.

4. Any significant environmental effects which cannot be avoided if the project is implemented.

5. Mitigation measures proposed to minimize the significant environmental effects including, but not limited to, measures to reduce wasteful, inefficient, and unnecessary consumption of energy.

6. Alternatives to the proposed project.

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

8. Any significant irreversible environmental changes which would be involved in the proposed project should it be implemented.

9. The growth-inducing impact of the proposed project.

10. The number of people affected by the project within the project boundaries.

B. The report shall contain a statement briefly indicating the reasons for determining that various effects of a project are not significant and consequently have not been discussed in detail in the environmental impact report.

C. The report shall also contain an index or table of contents and a summary.

D. The information described in subsections A7 and A8 of this section shall be required only in environmental impact reports prepared in connection with the following:

1. The adoption, amendment, or enactment of a plan, policy, or ordinance of a City agency.
2. The adoption by a local agency formation commission of a resolution making determinations.
3. A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.

SEC. 69.0502 CONTENTS OF A NEGATIVE DECLARATION

A negative declaration shall include a brief statement setting forth the following:

- A. A description of the project.
- B. The location of the project.
- C. A finding that the project will not have a significant effect on the environment.
- D. An attached copy of the initial study documenting reasons to support the finding.

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E. Mitigation measures, if any, included in the project to avoid potentially significant effects.

SEC. 69.0503 INCORPORATION BY REFERENCE

Information or data which is relevant to an environmental impact report or negative declaration and is a matter of public record or is generally available to the public need not be repeated in its entirety in such report or declaration, but may be specifically cited as the source for conclusions stated therein; provided further that such information or data shall be briefly described, that its relationship to the environmental impact report or negative declaration shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building.

SEC. 69.0504 CHANGES NECESSITATING SUBSEQUENT REPORT OR DECLARATION

When an environmental impact report or negative declaration has been prepared for a project pursuant to this article, no subsequent report or declaration 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 a reevaluation of the negative declaration.

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 or a reevaluation of the negative declaration.

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SEC. 69.0505 TIMELY COMPLIANCE

City agencies shall carry out their responsibilities for preparing and reviewing environmental impact reports and negative declarations within a reasonable period of time. The requirement for the preparation of environmental documents should not cause undue delays in the processing of applications for permits or other entitlements for use.

SEC. 69.0506 TIME LIMIT FOR COMPLETION OF REPORTS AND DECLARATIONS

Any environmental impact report or negative declaration required for a project described in Section 69.0217C shall be completed and certified within a time period not to exceed one year from the date on which a full and complete application requesting approval of such project is received by the City. For purposes of this section, no such application shall be deemed received until a full and complete application for environmental review is also made to the Environmental Quality Division of the Planning Department. A reasonable extension of this time limit may be granted by the City Council in the event that unforeseen circumstances justify additional time, provided that the project applicant consents thereto.

SEC. 69.0507 CONSULTATION BEFORE COMPLETING REPORTS OR DECLARATIONS

Prior to completing an environmental impact report or negative declaration, the Environmental Quality Division of the Planning Department shall consult with, and obtain comments from, any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved.

SEC. 69.0508 PUBLIC NOTICE

The Environmental Quality Division of the Planning Department shall provide public notice of the preparation of an environmental impact report or negative declaration within a reasonable period of time prior to the completion of such report or declaration so as to provide the public an opportunity to review and comment on the report or declaration. Notice shall be given by at least the following two procedures:

- A. By publication, one time, in a newspaper of general circulation in the area affected by the proposed project, and
- B. By mail to all organizations and individuals who have previously requested such notice.

Such additional notice as may be necessary or desirable may also be provided. The requirements of this section shall not preclude the providing of the public notice required herein at the same time and in the same manner as public notice otherwise required by law for such project.

SEC. 69.0509 NOTICE OF COMPLETION

Whenever the Environmental Quality Division of the Planning Department has completed an environmental impact report, it shall cause a notice of completion of such report to be filed with the Secretary of the State Resources Agency. The notice of completion shall briefly identify the project and shall indicate that an environmental impact report has been prepared. Failure to file the notice required by this section shall not affect the validity of a project.

SEC. 69.0510 NOTICES OF DETERMINATION OR EXEMPTION

A. Whenever a City agency 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 such determination with the county clerk of the county, or counties, in which the project will be located. Such notice shall indicate the determination of the City agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to the provisions of this article.

B. Whenever a City agency determines that a project is not subject to the provisions of this article pursuant to Section 69.0302, and it approves or determines to carry out such project, it, or the person specified in subsection B or C of Section 69.0217, may file notice of such determination with the county clerk of the county, or counties, in which the project will be located. Any notice filed pursuant to this subsection by a person specified in subsection B or C of Section 69.0217 shall have a certificate of determination attached to it issued by the City agency responsible for making the determination that a project is not subject to the provisions of this article pursuant to Section 69.0302. The certificate of determination may be in the form of a certified copy of an existing document or record of the City agency.

C. All notices filed pursuant to this section shall be available for public inspection, and a list of such notices

shall be posted on a weekly basis in the office of the county clerk. Each such list shall remain posted for a period of 30 days.

DIVISION 6

IMPLEMENTATION PROCEDURES

SEC. 69.0601 PROCEDURES FOR IMPLEMENTATION OF THIS ARTICLE

The Environmental Quality Division of the Planning Department shall prepare and develop objectives, criteria and procedures for the implementation of this article by all City agencies. These shall become effective on approval by Council resolution and may be similarly amended as necessary. The objectives, criteria and procedures shall be consistent with the provisions of the Act, the Guidelines and this article. Such objectives, criteria and procedures, or amendments thereto, shall be adopted no later than sixty (60) days after the Secretary of the State Resources Agency has adopted Guidelines, or amendments thereto, pursuant to Section 21083 of the Act.

The Environmental Quality Division of the Planning Department shall provide for the timely distribution to all City agencies of the procedures and any amendments or changes thereto. In addition, these procedures and any amendments or changes thereto shall be made conveniently available to other public agencies and to the general public.

SEC. 69.0602 CONTENTS OF PROCEDURES

The procedures adopted pursuant to Section 69.0601 shall include the following:

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A. Procedures for identifying the activities that are exempt from this article, including:

1. Provisions for evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment.

2. A list of projects over which City agencies have only ministerial authority.

3. A list of specific activities which fall within each of the classes of categorically exempt projects.

B. A list of projects over which City agencies have discretionary authority and which may be subject to the requirement for the preparation of an environmental impact report or negative declaration.

C. Objectives, standards and criteria to follow in determining whether or not a proposed project may have a significant effect on the environment.

D. Procedures for the conduct and preparation of initial studies.

E. Provisions for the preparation of negative declarations.

F. Provisions for the preparation of environmental impact reports.

G. Provisions for consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects.

H. Provisions assuring adequate opportunity and time for the public review and comment on environmental impact reports and negative declarations.

I. Provisions for evaluating and responding to comments received on environmental impact reports and negative declarations.

J. Provisions for the review and consideration of environmental impact reports and negative declarations by the person or decision-making body who will approve or disapprove a project.

K. Provisions for filing the notices or other documents required or authorized by the Act, the Guidelines and this article.

L. Provisions to ensure that lead agencies obtain adequate comments on environmental impact reports and negative declarations they submit to the City for review.

M. The assignment of responsibility for specific functions to specific City agencies.

N. Provisions for charging and collecting applicable fees.

O. Provisions to assure the prompt and efficient completion of environmental impact reports and negative declarations.

SEC. 69.0603 MANDATORY FINDINGS OF SIGNIFICANT EFFECT

The procedures adopted pursuant to Section 69.0601 shall require a finding that a project may have a significant effect on the environment if any of the following conditions exist:

A. A proposed project 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.

B. The possible effects of a project are individually limited but cumulatively considerable. As used in this subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

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

DIVISION 7

LIMITATIONS

SEC. 69.0701 CONSTRUCTION

To the extent of any inconsistency or conflict between the provisions of the Act and pursuant Guidelines and the provisions of this article and pursuant procedures, the provisions of the Act and the Guidelines shall control.

This article shall be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.

SEC. 69.0702 SEVERABILITY

If any provision of this article or the application thereof to any person or circumstances is held invalid by a court of

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competent jurisdiction, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application thereof, and to this end the provisions of this article are severable.

SEC. 69.0703 ACTIONS OR PROCEEDINGS FOR NONCOMPLIANCE

Any action or proceeding to attack, review, set aside, void or annul any act, determination, finding or decision of a City agency on the grounds of noncompliance with the California Environmental Quality Act or pursuant State EIR Guidelines shall be made in such manner and commenced within the time limits set forth in the Act.

SEC. 69.0704 ABSENCE OF RESTRICTION ON POWER OF CITY AGENCIES

No provision of this article is a limitation or restriction on the power or authority of any City agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer.

SEC. 69.0705 VALIDATION OF PRIOR REPORTS AND DECLARATIONS

Any environmental impact report or negative declaration which has been completed or on which substantial work has been performed on or before the effective date of this section, if otherwise legally sufficient, shall, when completed, be deemed to be in compliance with this article and no further report or declaration shall be required except as provided in Section 69.0504 hereof.

Section 3. 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 John K. Riess
John K. Riess, Deputy

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President - Plan

ATTORNEYS

San Diego, City of
12th Floor, City Admin. Bldg.
202 C St.
San Diego, Ca 92101
Attn: Betty Goldberg

CERTIFICATE OF PUBLICATION

No. 12203

IN THE MATTER OF

ENVIRONMENTAL QUALITY
ORDINANCE

ORDINANCE NO. 12203

(New Series)

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 9, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING ARTICLE 9, AND ALL DIVISIONS AND SECTIONS ENUMERATED THEREIN, RELATING TO THE ENVIRONMENTAL IMPACT REPORT PROCEDURAL ORDINANCE, AND BY ADDING A NEW ARTICLE 9, AND THE ACCOMPANYING DIVISIONS AND SECTIONS THEREOF, RELATING TO THE ENVIRONMENTAL QUALITY ORDINANCE.

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

Section 1. That Chapter VI of the San Diego Municipal Code be and it is hereby amended by repealing Article 9, and its title Environmental Impact Report Procedural Ordinance, and all divisions and sections enumerated therein.

Section 2. That Chapter VI of the San Diego Municipal Code be and it is hereby amended by adding a new Article 9, entitled Environmental Quality Ordinance, Divisions 1 through 7, and the accompanying sections enumerated below, to read as follows:

ARTICLE 9
ENVIRONMENTAL QUALITY ORDINANCE
DIVISION 1

PURPOSE, INTENT AND POLICY

SEC. 69.0101 PURPOSE

Pursuant to the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., herein "the Act") and State EIR Guidelines (Administrative Code, Section 15000, et seq., herein "the Guidelines"), it is incumbent upon the City of San Diego as a public agency to protect the interest of the public in securing, maintaining, preserving, protecting, rehabilitating and enhancing the environment within the City of San Diego.

This article has been enacted by the Council to attain that purpose, and to give effect to the Act and the Guidelines within the City of San Diego.

SEC. 69.0102 CITATION OF ARTICLE

This article shall be known and may be cited as the "Environmental Quality Ordinance of the City of San Diego."

SEC. 69.0103 DECLARATION OF COUNCIL FINDINGS AND INTENT

The Council, concurring with the State Legislature, finds and declares as follows:

A. The maintenance of a quality environment for the people of this City now and in the future is a matter of city-wide concern.

B. It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

C. There is a need to understand the relationship between the maintenance of high quality ecological systems and the general welfare of the people of the City, including their enjoyment of the natural resources of the City.

D. The capacity of the environment is limited, and it is the intent of the Council that City agencies take immediate steps to identify any critical thresholds for the health and safety of the people of the City and take all coordinated actions necessary to prevent such thresholds being reached.

E. Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

F. The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.

G. It is the intent of the Council that all City agencies which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage.

I, **PATRICIA M. SPAULDING** hereby certify that the 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; and the

ORDINANCE NO. 12203

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

November 25, 1977

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

January 4, 1978

Patricia M. Spaulding
(Signature)

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SECTION 69.0105 DECLARATION OF CITY POLICY: APPROVAL OF PROJECTS

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

- A. Develop and maintain a high-quality environment now and in the future, and take all actions necessary to protect, rehabilitate and enhance the environmental quality of the City.
- B. Take all actions necessary to provide the people of this City with clean air and water, enjoyment of aesthetic, natural, scenic and historic environmental qualities, and freedom from excessive noise.
- C. Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities, and examples of the major periods of California and San Diego history.
- D. Ensure that the long-term protection of the environment shall be the guiding criterion in public decisions.
- E. Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.
- F. Require City agencies at all levels to develop standards and procedures necessary to protect environmental quality.
- G. Require City agencies at all levels to consider qualitative factors as well as economic and technical factors, and long-term benefits and costs in addition to short-term benefits and costs, and to consider alternatives to proposed actions affecting the environment.

SECTION 69.0106 DECLARATION OF CITY POLICY: USE OF ENVIRONMENTAL IMPACT REPORTS

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

- A. City agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.
- B. The procedures required by this article are intended to assist City and other public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.
- C. In the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved notwithstanding one or more significant effects thereof.

SECTION 69.0107 DECLARATION OF CITY POLICY: ENVIRONMENTAL REVIEW PROCESS

The Council, concurring with the State Legislature, finds and declares that the following policy shall apply to the use of environmental impact reports:

- A. The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.
- B. Each City agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.
- C. In the event that specific economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of the City agency, provided that the project is otherwise permissible under applicable laws and regulations.
- D. In applying the policies of subsections B and C to individual projects, the responsibility of a City agency which is functioning as a lead agency shall differ from that of a City agency which is functioning as a responsible agency. A City agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A City agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve.

SECTION 69.0108 INCORPORATION OF THE ACT BY REFERENCE

The California Environmental Quality Act, insofar as applicable, is hereby incorporated and made a part of this article as fully as though the same were set forth in full.

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DIVISION 2
DEFINITIONS

SEC. 69.0201 GOVERNING DEFINITIONS
Unless the context otherwise requires, the definitions in this division shall govern the construction of this article.

SEC. 69.0202 APPROVAL
"Approval" means the decision by a City agency which commits the City 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 City agency according to its rules, regulations, and ordinances.

In connection with private activities, approval occurs upon the earliest commitment to issue or the issuance by a City 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.

SEC. 69.0203 CATEGORICAL EXEMPTION
"Categorical exemption" means an exception from the requirements of the Act for a class of projects based on a finding by the California Secretary for Resources that the class of projects does not have a significant effect on the environment.

SEC. 69.0204 CITY
"City" means the City of San Diego, a municipal corporation established by charter pursuant to the constitution and laws of the State of California.

"City" also means the area within the territorial limits of the City of San Diego and such territory outside of this City over which the City has jurisdiction or control by virtue of any constitutional or charter provisions, any law, or by reason of ownership or control of property.

SEC. 69.0205 CITY AGENCY
"City agency" means any agency, board, commission, committee, office, department, division or other organizational unit or subset of the City of San Diego municipal government.

SEC. 69.0206 DISCRETIONARY PROJECT
"Discretionary project" means an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of a City agency in the process of approving or disapproving a particular activity, as distinguished from situations where the City agency merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations.

SEC. 69.0207 EMERGENCY
"Emergency" means a sudden, unexpected occurrence, involving fire and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

SEC. 69.0208 ENVIRONMENT
"Environment" means the physical conditions which exist within the area which will be affected by a proposed project, including but not limited to land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.

SEC. 69.0209 ENVIRONMENTAL IMPACT REPORT
"Environmental impact report" means a written statement setting forth in detail the matters specified in Section 69.0202. An environmental impact report also includes any comments, recommendations, or findings which are required to be obtained pursuant to this article.

The environmental impact report of an environmental assessment shall be prepared in accordance with the provisions of this article, shall be submitted to every City or other public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide City and other public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to identify alternatives to such a project.

SEC. 69.0210 FEASIBLE
"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

SEC. 69.0211 INITIAL STUDY
"Initial study" means a preliminary analysis prepared by the lead agency to determine whether an environmental impact report or a negative declaration must be prepared.

SEC. 69.0212 LEAD AGENCY
"Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.

SEC. 69.0213 LOCAL AGENCY
"Local agency" means any public agency other than a state agency, board, or commission. For purposes of this article a redevelopment agency and a local agency formation commission are local agencies, and neither is a state agency, board, or commission.

SEC. 69.0214 MINISTERIAL PROJECT
"Ministerial project" means an activity defined as a project which is undertaken or approved by a governmental decision which a City agency makes upon a given state of facts in a prescribed manner in accordance to the mandate of legal authority. With such a project, the City agency must act upon the given facts without regard to its own judgment of opinion concerning the propriety or wisdom of the act although the statute, ordinance or regulation may require, in some degree, a construction of its language by the agency. A ministerial decision involves only the use of fixed standards or objective measurements without personal judgment.

SEC. 69.0215 NEGATIVE DECLARATION
"Negative declaration" means a written statement, briefly stating the reasons why a project is not considered to have a significant effect on the environment.

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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 and political subdivisions of such entities.

SEC. 09.0217 PROJECT

"Project" means the whole of an action which has a potential for resulting in a physical change in the environment, directly or ultimately, that is any of the following:

- A. An activity directly undertaken by any City agency.
- B. An activity undertaken by a person which is supported in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more City 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 City agencies.

The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

SEC. 09.0218 PUBLIC AGENCY

"Public agency" includes any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision.

SEC. 09.0219 RESPONSIBLE AGENCY

"Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.

SEC. 09.0220 SIGNIFICANT EFFECT ON THE ENVIRONMENT

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment.

DIVISION 3

APPLICATION TO PROJECTS

SEC. 09.0301 PROJECTS TO WHICH THIS ARTICLE APPLIES

Except as otherwise provided in this article, this article shall apply to discretionary projects proposed to be carried out or approved by any City agency.

SEC. 09.0302 PROJECTS EXEMPT FROM THIS ARTICLE

Except as otherwise provided in this article, this article shall not apply to the following:

A. Ministerial projects proposed to be carried out or approved by any City agency.

B. Emergency repairs to public service facilities necessary to maintain service.

C. Projects undertaken, carried out, or approved by any City agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

D. Specific actions necessary to prevent or mitigate an emergency.

E. Feasibility or planning studies for possible future actions which have not been approved, adopted or funded.

F. Categorically exempt projects proposed to be carried out or approved by any City agency.

Projects exempted by this section from the preparation of an environmental impact report or negative declaration shall nevertheless include consideration of environmental factors.

SEC. 09.0303 PROJECTS TO WHICH NEPA APPLIES

When an environmental impact statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 and implementing regulations thereon, all or any part of such statement may be submitted in lieu of all or any part of an environmental impact report required by this article, provided that such statement, or the parts thereof so used, shall comply with the requirements of this article and the procedures adopted pursuant thereto.

SEC. 09.0304 REDEVELOPMENT PROJECTS

For all purposes of this article, all public and private activities or undertakings pursuant to or in furtherance of a redevelopment plan shall be deemed a single project.

SEC. 09.0305 ENVIRONMENTAL REPORTS PURSUANT TO LOCAL AUTHORITY

Notwithstanding the exemption of certain projects from the requirement for an environmental impact report or negative declaration, nothing in the Act, the Guidelines or this article limits the authority and responsibility of any City agency to obtain and consider data and information which will assist such agency in considering the environmental consequences of any project it proposes to carry out or approve.

Any City agency having jurisdiction with respect to a proposed project may, when deemed in the public interest, request the Environmental Quality Division of the Planning Department to conduct such analyses and prepare such reports as will assist such City agency in its consideration of the environmental consequences of the proposed project. Such staff reports shall not be bound by the substantive and procedural requirements applicable to environmental impact reports and negative declarations, nor shall the fees required by Section 09.0405 apply. However, the person preparing such reports shall be required to comply with the requirements of the Act, the Guidelines, and this article.

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**GENERAL RESPONSIBILITIES
SEC. 89.0401 REQUIREMENT FOR ENVIRONMENTAL DOCUMENTS**

Pursuant to the Act and the Guidelines, all public agencies are required to prepare, or cause to be prepared by contract, and certify the completion of an environmental impact report on any project they propose to carry out or approve which may have a significant effect on the environment. In the event that a public agency determines that a proposed project, not otherwise exempt from the provisions of the Act and Guidelines, does not have a significant effect on the environment, such public agency is required to adopt a negative declaration to that effect. Such documents must be prepared and considered prior to the public agency decision to carry out or approve the project.

SEC. 89.0402 PREPARATION BY LEAD AGENCY

Pursuant to the Act and the Guidelines, when a project is to be carried out or approved by two or more public agencies, the determination of whether the project may have a significant effect on the environment shall be made by the lead agency and such agency shall prepare, or cause to be prepared by contract, the environmental impact report or negative declaration, if such report or declaration is required. In the event that a dispute arises as to which is the lead agency, any public agency may submit the question to the State Office of Planning and Research, and the Office of Planning and Research shall designate the lead agency, giving due consideration to the capacity of such agency to adequately fulfill the requirements of the Act and the Guidelines.

**SEC. 89.0403 ENVIRONMENTAL QUALITY DIVISION
PREPARATION OF REPORTS AND DECLARATIONS**

Any environmental impact report or negative declaration prepared pursuant to the requirements of this article shall be prepared directly by, or under contract to, the Environmental Quality Division of the Planning Department. In carrying out this responsibility, the Environmental Quality Division of the Planning Department shall strictly observe the independence and objectivity required of it pursuant to Section 22.2402 of the Municipal Code.

This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information to the Environmental Quality Division of the Planning Department. Such information may be submitted in any format and may be included in whole or in part in any such report or declaration.

SEC. 89.0404 SUBMISSION OF INFORMATION

The Environmental Quality Division of the Planning Department may require any person proposing a project to which this article applies to submit data and information which may be necessary to determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report or negative declaration.

SEC. 89.0405 FEES FROM PERSON PROPOSING PROJECT

The Environmental Quality Division of the Planning Department shall charge and collect a reasonable fee from any person, other than a public agency, proposing a project subject to the provisions of this article in order to recover the estimated costs incurred by the City in preparing an environmental impact report or negative declaration for such project. The Planning Director shall prepare and submit to the Council an appropriate fee schedule. Such schedule shall become effective on approval by Council resolution, and may be similarly amended as necessary.

SEC. 89.0406 INCLUSION WITH REGULAR PROJECT REPORTS

City agencies shall include the environmental impact report or negative declaration with the regular project report used in the existing project approval process. It shall be available to the Council. It shall also be available for inspection by the general public who may secure a copy thereof by paying for the actual cost of such a copy. It shall be filed with the appropriate local planning agency of any city, county, or city and county which will be affected by the project.

SEC. 89.0407 FINDINGS IN CONNECTION WITH PROJECT

APPROVAL

A. No City agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects of the project unless the City agency makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final environmental impact report.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City agency making the finding; and further, that such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

B. The findings required by subsection A shall be supported by substantial evidence in the record.

C. The findings in subsection A shall not be made if the City agency making the finding has not consulted with another agency or deal with identified significant effects of the project.

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SECTION 99.0200 REVIEW OF CITY ACTIVITIES AFFECTING THE ENVIRONMENT

City agencies, in consultation with the Environmental Quality Division of the Planning Department, shall periodically review and evaluate the ordinances, plans, policies, standards, criteria, procedures and practices under which they conduct their activities which may affect the quality of the environment and shall make or propose such changes in their activities that will further the purpose, intent and policies of this article.

**DIVISION 5
ENVIRONMENTAL IMPACT REPORTS
and NEGATIVE DECLARATIONS**

SEC. 99.0501 CONTENTS OF AN ENVIRONMENTAL IMPACT REPORT

A. An environmental impact report shall include a detailed statement setting forth the following:

1. A description of the project.
2. A description of the environmental setting of the project.
3. The significant environmental effects of the proposed project.
4. Any significant environmental effects which cannot be avoided if the project is implemented.
5. Mitigation measures proposed to minimize the significant environmental effects including, but not limited to, measures to reduce wasteful, inefficient, and unnecessary consumption of energy.
6. Alternatives to the proposed project.
7. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.
8. Any significant irreversible environmental changes which would be involved in the proposed project should it be implemented.
9. The growth-inducing impact of the proposed project.
10. The number of people affected by the project within the project boundaries.

B. The report shall contain a statement briefly indicating the reasons for determining that various effects of a project are not significant and consequently have not been discussed in detail in the environmental impact report.

C. The report shall also contain an index or table of contents and a summary.

D. The information described in subsections A7 and A8 of this section shall be required only in environmental impact reports prepared in connection with the following:

1. The adoption, amendment, or enactment of a plan, policy or ordinance of a City agency.
2. The adoption by a local agency formation commission of a resolution making determinations.
3. A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.

SEC. 99.0502 CONTENTS OF A NEGATIVE DECLARATION

A. A negative declaration shall include a brief statement setting forth the following:

- A. A description of the project.
- B. The location of the project.
- C. A finding that the project will not have a significant effect on the environment.
- D. An attached copy of the initial study documenting reasons to support the finding.
- E. Mitigation measures, if any, included in the project to avoid potentially significant effects.

SEC. 99.0503 INCORPORATION BY REFERENCE

Information or data which is relevant to an environmental impact report or negative declaration and is a matter of public record or is generally available to the public need not be repeated in its entirety in such report or declaration, but may be specifically cited as the source for conclusions stated therein; provided further that such information or data shall be briefly described, that its relationship to the environmental impact report or negative declaration shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building.

SEC. 99.0504 CHANGES NECESSITATING SUBSEQUENT REPORT OR DECLARATION

When an environmental impact report or negative declaration has been prepared for a project pursuant to this article, no subsequent report or declaration 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 a reevaluation of the negative declaration.
- 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 or a reevaluation of the negative declaration.

SEC. 99.0505 TIMELY COMPLIANCE

City agencies shall carry out their responsibilities for preparing and reviewing environmental impact reports and negative declarations within a reasonable period of time. The requirement for the preparation of environmental documents should not cause undue delays in the processing of applications for permits or other entitlements for use.

SEC. 99.0506 TIME LIMIT FOR COMPLETION OF REPORTS AND DECLARATIONS

Any environmental impact report or negative declaration required for a project described in Section 99.0217C shall be completed and certified within a time period not to exceed one year from the date on which a full and complete application requesting approval of such project is received by the City. For purposes of this section, no such application shall be deemed received until a full and complete application for environmental review is also made to the Environmental Quality Division of the Planning Department. A reasonable extension of this time limit may be granted by the City Council in the event the project sponsor can justify additional time provided that the project is not abandoned.

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SECTION 69.0508 PUBLIC NOTICE
The Environmental Quality Division of the Planning Department shall provide public notice of the preparation of an environmental impact report or negative declaration within a reasonable period of time prior to the completion of such report or declaration so as to provide the public an opportunity to review and comment on the report or declaration. Notice shall be given by at least the following two procedures:

A. By publication, one time, in a newspaper of general circulation in the area affected by the proposed project, and
B. By mail to all organizations and individuals who have previously requested such notice. Such additional notice as may be necessary or desirable may also be provided. The requirements of this section shall not preclude the providing of the public notice required herein at the same time and in the same manner as public notice otherwise required by law for such project.

SECTION 69.0509 NOTICE OF COMPLETION
Whenever the Environmental Quality Division of the Planning Department has completed an environmental impact report, it shall cause a notice of completion of such report to be filed with the Secretary of the State Resources Agency. The notice of completion shall briefly identify the project and shall indicate that an environmental impact report has been prepared. Failure to file the notice required by this section shall not affect the validity of a project.

SECTION 69.0510 NOTICES OF DETERMINATION OR EXEMPTION
A. Whenever a City agency 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 such determination with the county clerk of the county, or counties, in which the project will be located. Such notice shall indicate the determination of the City agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to the provisions of this article.
B. Whenever a City agency determines that a project is not subject to the provisions of this article pursuant to Section 69.0502, and it approves or determines to carry out such project, it, or the person specified in subsection B or C of Section 69.0217, may file notice of such determination with the county clerk of the county, or counties, in which the project will be located. Any notice filed pursuant to this subsection by a person specified in subsection B or C of Section 69.0217 shall have a certificate of determination attached to it issued by the City agency responsible for making the determination that a project is not subject to the provisions of this article pursuant to Section 69.0502. The certificate of determination may be in the form of a certified copy of an existing document or record of the City agency.

C. All notices filed pursuant to this section shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the office of the county clerk. Each such list shall remain posted for a period of 30 days.

**DIVISION 6
IMPLEMENTATION PROCEDURES**

SECTION 69.0511 PROCEDURES FOR IMPLEMENTATION OF THIS ARTICLE

The Environmental Quality Division of the Planning Department shall prepare and develop objectives, criteria and procedures for the implementation of this article by all City agencies. These shall become effective on approval by Council resolution and may be similarly amended as necessary. The objectives, criteria and procedures shall be consistent with the provisions of the Act, the Guidelines and this article. Such objectives, criteria and procedures, or amendments thereto, shall be adopted no later than sixty (60) days after the Secretary of the State Resources Agency has adopted Guidelines, or amendments thereto, pursuant to Section 21063 of the Act.

The Environmental Quality Division of the Planning Department shall provide for the timely distribution to all City agencies of the procedures and any amendments or changes thereto. In addition, these procedures and any amendments or changes thereto shall be made conveniently available to other public agencies and to the general public.

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The provisions of proposed ordinance to Section 62.001 shall include the following:

A. Procedures for identifying the activities that are exempt from this article, including:

1. Provisions for evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment.

2. A list of projects over which City agencies have only ministerial authority.

3. A list of specific activities which fall within each of the classes of categorically exempt projects.

4. A list of projects over which City agencies have discretionary authority and which may be subject to the requirement for the preparation of an environmental impact report or negative declaration.

C. Objectives, standards and criteria to follow in determining whether or not a proposed project may have a significant effect on the environment.

D. Procedures for the conduct and preparation of initial studies.

E. Provisions for the preparation of negative declarations.

F. Provisions for the preparation of environmental impact reports.

G. Provisions for consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects.

H. Provisions assuring adequate opportunity and time for the public review and comment on environmental impact reports and negative declarations.

I. Provisions for evaluating and responding to comments received on environmental impact reports and negative declarations.

J. Provisions for the review and consideration of environmental impact reports and negative declarations by the person or decision-making body who will approve or disapprove a project.

K. Provisions for filing the notices or other documents required or authorized by the Act, the Guidelines and this article.

L. Provisions to ensure that lead agencies obtain adequate comments on environmental impact reports and negative declarations they submit to the City for review.

M. The assignment of responsibility for specific functions to specific City agencies.

N. Provisions for planning and collecting applicable fees.

O. Provisions to ensure the prompt and efficient completion of environmental impact reports and negative declarations.

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A. A proposed project has the potential to degrade the quality of the environment, or to achieve the purpose or advantage of long-term, environmental goals, if the possible effects of a project are individually limited but cumulatively considerable. As used in this subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of other projects, the effects of other current projects, and the effects of possible future projects.

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

DIVISION 7 LIMITATIONS

SEC. 68.0701 CONSTRUCTION

To the extent of any inconsistency or conflict between the provisions of the Act and pursuant Guidelines and the provisions of this article and pursuant procedures, the provisions of the Act and the Guidelines shall control.

This article shall be interpreted in such manner as to afford the latest possible protection to the environment within the reasonable scope of the statutory language.

SEC. 68.0702 SEVERABILITY

If any provision of this article or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application thereof, and to this end the provisions of this article are severable.

SEC. 68.0703 ACTIONS OR PROCEEDINGS FOR NONCOMPLIANCE

Any action or proceeding to attack, review, set aside, void or annul any act, determination, finding or decision of a City agency on the grounds of noncompliance with the California Environmental Quality Act or pursuant State ETE Guidelines shall be made in such manner and commenced within the time limits set forth in the Act.

SEC. 68.0704 ABSENCE OF RESTRICTION ON POWER OF CITY AGENCIES

No provision of this article is a limitation or restriction on the power or authority of any City agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer.

SEC. 68.0705 VALIDATION OF PRIOR REPORTS AND DECLARATIONS

Any environmental impact report or negative declaration which has been completed or on which substantial work has been performed on or before the effective date of this section, if otherwise legally sufficient, shall, when completed, be deemed to be in compliance with this article and no further report or declaration shall be required except as provided in Section 68.0404 hereof.

Section 3. This ordinance shall take effect and be in force on the tenth day from and after its passage.

Introduced on Oct. 25, 1977.

Passed and adopted by the Council of The City of San Diego on Nov. 8,

1977.

AUTHENTICATED BY:

PETE WILSON,
Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.
By KATHLEEN MARTINEZ, Deputy.

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