

ORDINANCE NUMBER O- 21189 (NEW SERIES)

DATE OF FINAL PASSAGE APR 21 2020

AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO CHARTER SECTION 295 ENACTING A TEMPORARY SUSPENSION OF THE CITY'S APPLICATION OF DIVISION 13 OF THE PUBLIC RESOURCES CODE FOR QUALIFYING NON-DEVELOPMENT PROJECTS AND A TEMPORARY CHANGE TO MUNICIPAL CODE SECTIONS 112.0310, RELATED TO THE NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION, AND PROCEDURES RELATED TO APPLICATION OF THE EMERGENCY STATUTORY EXEMPTION FOR NON-DEVELOPMENT PROJECTS, DUE TO THE STATE OF EMERGENCY RESULTING FROM THE NOVEL CORONAVIRUS, COVID-19.

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in December 2019; and

WHEREAS, COVID-19 symptoms include fever, cough, and shortness of breath, and those who have been afflicted have experienced anything from mild illness to death; and

WHEREAS, the Centers for Disease Control and Prevention considers COVID-19 to be a very serious public health threat and the World Health Organization declared the COVID-19 outbreak to be a pandemic; and

WHEREAS, on February 19, 2020, the County Board of Supervisors ratified a declaration of local health emergency related to COVID-19; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19; and

WHEREAS, on March 12, 2020, Mayor Kevin Faulconer proclaimed the existence of a local emergency in the City of San Diego (City) as a result of COVID-19, which was ratified by the Council of the City of San Diego (Council) on March 17, 2020; and

WHEREAS, on March 18, 2020, Governor Gavin Newsom issued Executive Order N-32-20, suspending Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division (California Environmental Quality Act) for any projects using Homeless Emergency Aid Program funds, Homeless Housing, Assistance and Prevention Program funds, or other funds appropriated in Senate Bill 89 (Qualifying Projects); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, requiring all Californians to stay at home or their place of residence, except to obtain essential services (Stay at Home Order); and

WHEREAS, the City applies the California Environmental Quality Act (CEQA) to development, as defined under San Diego Municipal Code (SDMC) section 113.0103 and California Government Code section 65927 (Development Projects), and to projects which are not development (Non-development Projects); and

WHEREAS, in accordance with CEQA, the City has established the Notice of Right to Appeal Environmental Determination process in the Land Development Code portion of the SDMC; and

WHEREAS, as part of the appeal process, the City posts a Notice of Right to Appeal Environmental Determination (Notice of Right to Appeal) for categorical and statutory exemptions enumerated in the CEQA Guidelines, including the statutory exemption for Emergency Projects, CEQA Guidelines section 15269 and California Public Resources Code section 21080(b)(2) -(4) (Emergency Project Statutory Exemption); and

WHEREAS, under the Emergency Project Statutory Exemption, SDMC section 112.0310, the Notice of Right to Appeal must be posted for 10 business days on the City's

website and at the Development Services Department in an area easily accessible to the public;
and

WHEREAS, suspending the City's application of CEQA for all Non-development, Qualifying Projects will allow the City to efficiently take appropriate actions to protect the health and safety of the homeless populations, reduce the spread of COVID-19 in the homeless populations, and provide safe beds for people experiencing homelessness, consistent with Governor Newsom's Executive Order N-32-20; and

WHEREAS, in accordance with the Stay at Home Order, and to ensure appropriate social distancing and prevent the spread of COVID-19, posting a copy of the Notice of Right to Appeal at the Development Services Department, in addition to posting on the City's website, is not feasible during the local emergency; and

WHEREAS, the City has identified Non-development Projects where the Emergency Project Statutory Exemption applies, and delaying the implementation of those projects during an appeal period delays the City's ability to implement emergency actions needed to address the local emergency and mitigate or prevent the spread of COVID-19; and

WHEREAS, the temporary change to the posting requirements for the Notice of Right to Appeal specified herein will assist in ensuring the continuity of City operations during the local emergency, and ensure that essential City actions are provided as necessary to protect the public health, safety, and welfare, and to prevent the spread of COVID-19; and

WHEREAS, as of April 13, 2020, there are more than 1,800 confirmed cases of COVID-19 within San Diego County, more than 22,700 in California, and at least 641 COVID-19-related deaths in California, and these statistics are increasing daily; and

WHEREAS, the effects of the COVID-19 pandemic on the global economy and supply chains are impacting many local companies due to overseas factories operating at reduced capacity and a drastic reduction in tourism; and

WHEREAS, COVID-19 is causing, and is expected to continue to cause, serious negative impacts on the local economy and serious financial impacts to local residents and businesses, including substantial loss of income due to the loss of compensable work hours or wages, layoffs, and business closures; and

WHEREAS, in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary public exposure; and

WHEREAS, this Ordinance temporarily suspends the City's application of CEQA for all Non-Development Qualifying Projects; and

WHEREAS, this Ordinance temporarily changes the Notice of Right to Appeal posting requirements for the Emergency Project Statutory Exemption for Non-development Projects only require posting on posted on the City's website; and

WHEREAS, it is in the public interest to take steps to ensure people remain housed or sheltered and to reduce financial impacts on San Diego residents during this public health emergency; and

WHEREAS, San Diego Charter, Article III, section 11 vests all legislative authority for the City in the Council; and

WHEREAS, California Government Code section 8634 allows the Council, as the governing body, to make orders and regulations necessary to provide for the protection of life and property; and

WHEREAS, the Council finds that adopting this emergency Ordinance is necessary and appropriate to address the threats to the public health, safety, and welfare of its citizens related to the significant health and economic impacts of the COVID-19 pandemic, and to further enable compliance with public health orders and recommendations related to COVID-19; specifically, adopting this emergency Ordinance will allow the City to implement City actions needed to prevent or mitigate the adverse effects to public health, safety, and welfare related to the spread of COVID-19, and will allow continuity of City operations while minimizing the spread of COVID-19 from additional in person posted notices; and

WHEREAS, the Council finds that there is an emergency necessitating immediate adoption of this Ordinance pursuant to San Diego Charter section 295; and

WHEREAS, under San Diego Charter section 280(a)(3), this Ordinance is not subject to veto by the Mayor because it is an emergency ordinance; and

WHEREAS, under San Diego Charter section 295(e), a supermajority vote of the Council is required for passage of this Ordinance; NOW, THEREFORE,

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

Section 1. That the City's application of CEQA for all Non-development, Qualifying Projects is suspended and shall not be in effect for the duration of the local emergency, consistent with Governor Newsom's Executive Order N-32-20.

Section 2. That San Diego Municipal Code section 112.0310(d), related to location to post a Notice of Right to Appeal, is temporarily changed for all Non-development Projects in which the environmental determination is the Emergency Project Statutory Exemption. The Notice of Right to Appeal must be posted on the City's website and does not require a posting at the Development Services Department.

Section 3. That all Non-Development Projects in which the environmental determination is the Emergency Project Statutory Exemption may proceed during the pending of the appeal period and any later appeal hearings.

Section 4. That these temporary changes shall last until the local emergency is terminated or upon earlier termination by the Council, whichever occurs sooner.

Section 5. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 6. That this Ordinance is declared to be an emergency measure required for the immediate preservation of the public peace, safety, health, and welfare pursuant to San Diego Charter section 295, and shall take effect immediately from the day of adoption by the affirmative vote of at least six members of the Council.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine Neuffer
Corrine Neuffer
Deputy City Attorney

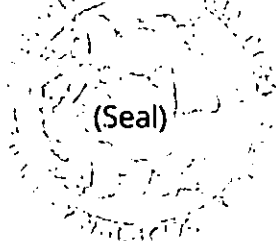
CLN:als
04/13/2020
Or.Dept:DSD
Doc. No.: 2363928

Passed by the Council of The City of San Diego on APR 21 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 21 2020

AUTHENTICATED BY:



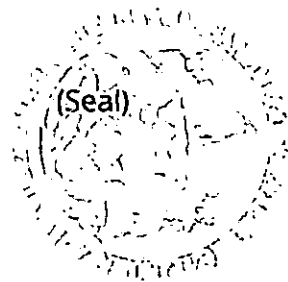
KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on APR 21 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.



ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21189