

ORDINANCE NO. _____

An ordinance adding Article 4 to Chapter XIX of the Los Angeles Municipal Code to establish a procedure pursuant to Section 21151(c) of the California Public Resources Code for appeals to the City Council from environmental determinations by certain nonelected decisionmakers.

WHEREAS, the Charter and the Los Angeles Municipal Code provide that certain decisions, including decisions subject to the California Environmental Quality Act (CEQA), can be made on behalf of the City of Los Angeles by nonelected decisionmaking bodies, such as Boards, Commissions, Departments and Officials;

WHEREAS, Section 21151(c) of the California Public Resources Code ("Statute") provides that:

"If a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to [CEQA], that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any";

WHEREAS, neither the Statute nor the applicable regulations set forth in Title 14 of the California Code of Regulations, specify a procedure for such appeals; and

WHEREAS, the City Council desires to establish procedures governing appeals of environmental determinations made by nonelected decisionmaking bodies, such as Boards, Commissions, Departments, and Officials.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 4 entitled "California Environmental Quality Act (CEQA) Appeals" is added to Chapter XIX of the Los Angeles Municipal Code to read as follows:

ARTICLE 4

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") APPEALS

SEC. 197.01. CEQA APPEALS.

A. **Applicability.** This section shall apply to environmental determinations made by nonelected decisionmaking bodies or individuals, except that this section shall not apply to actions taken by departments established pursuant to Charter Section 600, or actions authorized by Chapter 1 of the Los Angeles Municipal Code.

B. Environmental Determinations Subject to Appeal. Pursuant to California Public Resources Code Section 21151(c), the following actions taken by a nonelected decisionmaking body or individual may be appealed to City Council: (1) certification of an environmental impact report; (2) adoption of a negative declaration or mitigated negative declaration; or (3) a written determination that a project is not subject to CEQA (each an "Environmental Determination"), provided that this section does not apply when the action by the nonelected decisionmaking body or individual is made appealable to, or is required to be reviewed by, City Council pursuant to any other provision of law.

C. Time to File an Appeal. Any appeal of an Environmental Determination made by a nonelected decisionmaking body or individual ("CEQA Appeal") shall be filed the earliest of: (i) prior to the expiration of ten (10) days following the filing of either a Notice of Exemption or Notice of Determination in compliance with CEQA; or (ii) one hundred and eighty (180) days following the Environmental Determination made by a nonelected decisionmaking body or individual if no Notice of Exemption or Notice of Determination is filed.

D. Place to File. The CEQA Appeal and all supporting documents must be filed in the Office of the City Clerk, and a complete copy filed concurrently in the office of the nonelected decisionmaking body or individual whose Environmental Determination is being appealed.

E. Contents of CEQA Appeal. All CEQA Appeals shall be in writing on a form provided by the City Clerk or, if no such form is provided, shall contain the following:

1. A cover sheet that:
 - (a) Identifies the filing as a CEQA Appeal under Los Angeles Municipal Code Section 197.01;
 - (b) Identifies the nonelected decisionmaking body or individual whose Environmental Determination is being appealed;
 - (c) Identifies the Environmental Determination being appealed and the date on which the nonelected decisionmaking body or individual made such Environmental Determination;
 - (d) The name, address, and telephone number of the person filing the CEQA Appeal (the "Appellant"); and
 - (e) Legal basis for the CEQA Appeal.

2. Within ten (10) days of filing the CEQA appeal, Appellant shall submit to the City Clerk all documentary evidence, other supporting material, and

argument that Appellant wishes to present to the City Council. The written argument shall specify all grounds for the CEQA Appeal, specifying in detail why the Appellant contends that the Environmental Determination does not comply with CEQA.

F. **Notice of Council Action.** Before the City Council acts on the CEQA Appeal, the matter shall be heard at a public meeting. At least ten (10) days' notice of the public meeting shall be given by mail to the Appellant; the recipient of any approval issued in connection the challenged Environmental Determination, if any; and any person or entity that has requested notice pursuant to California Public Resources Code Section 21092.2.

G. **Time to File Additional Documents.** Any and all additional argument, whether in support of or in opposition to the CEQA Appeal, including any staff report responding to the CEQA Appeal, and any additional evidence, must be filed with the City Clerk at least five (5) days prior to the date set for the public meeting.

H. **City Council Decision.** Within seventy-five (75) days of the filing of a CEQA Appeal, City Council shall hear and decide the matter, or upon a determination that good cause exists, continue the matter for a reasonable period of time.

I. **Stay of Project Approval.** If a timely CEQA Appeal has been filed, then pending resolution of the CEQA Appeal, the action by the nonelected decisionmaking body or individual shall be stayed and no permits may issue and no work based thereon may proceed.


J. **Exhaustion of Administrative Remedies.** No person entitled to file a CEQA Appeal pursuant to this section may initiate action in a court of law challenging the Environmental Determination unless and until such person files the CEQA Appeal and the City Council has taken final action on the CEQA Appeal.

K. **Severability.** If any section, subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
TIMOTHY MCWILLIAMS
Assistant City Attorney

Date 5/6/19

File No. _____

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____