

UPDATED PROPOSED ORDINANCE, September 26, 2018

ORDINANCE NO. _____

An ordinance adding Section 11.5.13 to Article 1.5 of Chapter 1 of the Los Angeles Municipal Code to allow appeals to the City Council from CEQA clearance approvals by lower decision-making bodies and prohibit improper segmentation of projects.

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

Section 1. A new Section 11.5.13 is added to Article 1.5 of Chapter 1 of the Los Angeles Municipal Code to read as follows:

SEC. 11.5.13. CEQA Procedures.

A. Purpose. This section is intended to implement California Public Resources Code Sections 21151(c) and 21155.2(b)(5) and establish authority and a process for the City to revoke or withhold permits, including but not limited to building permits, to ensure a Project has not been improperly segmented for purposes of review under the California Environmental Quality Act (CEQA).

B. Appeal. When any decision-maker in any action authorized by this Chapter, other than the City Council, certifies an environmental impact report, adopts a negative declaration, mitigated negative declaration or a sustainable communities environmental assessment, or determines that the Project subject to approval under this Chapter is not subject to the CEQA, that certification, approval, or determination may be appealed to the City Council provided all appeals of the Project approval have been exhausted, the appeal is filed with the Department of City Planning within 15 days of the Project approval becoming final, and the appeal is filed in a form and manner required by the Department of City Planning.

C. Stay. Upon the filing of an appeal pursuant to Subsection B, there shall be a stay on the Project approval and any discretionary or ministerial permits issued in reliance upon the Project approval and, notwithstanding any contrary language in this Code, the time to act on any related Project approval shall be tolled until the appeal is decided by the City Council.

D. Hearing and Decision. The City Council shall act on the CEQA appeal within 75 days after the expiration of the appeal period or within any additional period mutually agreed upon by the applicant and the City Council. The City Council shall

hold a public hearing before acting on the appeal. Notice of the hearing by mail shall be given to the applicant, appellant, any person or entity that has requested notice in writing of CEQA notices by mail, and responsible and trustee agencies, if any, at least 10 days before the hearing.

E. Issuance of Permits in Compliance with CEQA. No permit shall be issued by the Department of City Planning or the Department of Building and Safety that violate CEQA, including by approving a discretionary Project without making the necessary findings under CEQA. Discretionary Projects include Projects that require both discretionary and ministerial approvals.

F. Prohibition of Improper Segmentation of Projects.

1. No person or entity, including without limitation, the applicant, the property owner, or a representative of the applicant or the property owner, shall take any action to avoid CEQA review of the Project.

2. If the Director or any decision maker in this Chapter finds, based upon substantial evidence, that an applicant, the property owner, or a representative of the applicant or the property owner has misrepresented the Project in any application to the City, the Director may request the Department of Building and Safety to initiate a process to stop work on the Project site, revoke any permits issued for the Project site, or take any other enforcement action available for site preparation, demolition, excavation, or construction without a permit.

3. If a Project has been improperly segmented through the misrepresentations of the applicant, the property owner, or their representatives, and permitted or unpermitted activities have already occurred on the Project site prior to completion of the City's review of the Project under CEQA, the City may use a Project description that includes the whole of the Project, including those activities that have already occurred on the Project site, and analyze the Project against a baseline of the physical conditions prior to the improper segmentation if it is reasonably necessary to adequately analyze and mitigate all potential significant impacts from the Project.

4. Nothing in this subsection is intended to provide any right or remedy to any third party that does not already exist at law.

G. "Project" in this Section is as defined by Public Resources Code, section 21065 and CEQA Guidelines, section 15378.

Sec. 2. The City Clerk shall certify....