



Appeal Filing to the Board of Supervisors

California Environmental Quality Act (CEQA)

Negative Declaration Appeal

Administrative Code, Section 31.16

(Ordinance No. 161-13)

The adoption of a Negative Declaration may be appealed to the Board of Supervisors if filed in accordance with the procedures listed below. These paragraphs are written to provide a summary of the process. Further details are contained in [Administrative Code, Section 31.16](#). In case of conflict between these paragraphs and the Administrative Code, the Administrative Code provisions control.

Who May File An Appeal:

Any person, entity, or agent thereof that filed an appeal of the preliminary negative declaration with the Planning Commission during the public comment period for the preliminary negative declaration may appeal the adoption of the final negative declaration to the Board of Supervisors.

[Administrative Code Section 31.16\(d\)\(1\)](#)

Filing Deadline:

Letter of appeal signed by the appellant or the appellant's agent shall be filed no later than 30 days after the Date of Approval Action (e.g. the adoption of the negative declaration) for the project taken in reliance on the negative declaration.

[Administrative Code, Section 31.16\(d\)\(2\)](#)

NOTE 1: Chapter 31.16 allows for an appellant to file a negative declaration appeal after the Planning Commission approves a negative declaration--even if prior to the Date of the Approval Action--but the Clerk cannot process a negative declaration appeal until the Approval Action occurs. The Clerk will hold a negative declaration appeal filed before the Approval Action until the Planning Department advises the Clerk that the Date of Approval Action has occurred.

NOTE 2: If the 30th day falls on a Saturday, Sunday or holiday the appeal may be filed before 5:00 p.m. on the next business day.



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What to File:

(1 original and 2 hard-copies)

The following shall be filed with the Clerk of the Board of Supervisors:

- 1) Letter of appeal stating the specific grounds for the appeal and any other written materials in support of the appeal. Appellant shall also submit the appeal materials to the Environmental Review Officer at the same time as submittal to the Clerk of the Board;
- 2) A copy of the Planning Commission's approval of the negative declaration; and
- 3) \$562 Appeal Fee, payable to the San Francisco Planning Department;
[Administrative Code, Sections 31.16\(b\)\(1\)](#)

NOTE 1: The Clerk of the Board may reject an appeal if appellant fails to comply with Administrative Code, Section 301.16(b)(1).

NOTE 2: Such submission may be done by electronic means. Any materials will become public records, therefore, if any private information is included, Appellant is responsible for redacting such information prior to submission.

Fee waiver and refund information:
[Administrative Code, Sections 31.22-23](#)

Where to File:

Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102



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Conditional Acceptance:

Upon filing, the Clerk will accept the appeal conditioned on

- 1) The Planning Department determining that the Approval Action has occurred and the appeal has been filed in a timely manner, and
- 2) The Clerk determining that the appeal otherwise complies with the submittal requirements. The Clerk will mail notice to the appellant(s) of the acceptance or rejection of the appeal within seven working days of the filing of the appeal.

Administrative Code, Section 31.16(b)(1)

NOTE: If the appeal is filed prior to Approval Action, the Clerk will inform the appellant that the appeal will not be held until the Planning Department advises the Clerk that the Approval Action has occurred.

Hearing Date:

The Clerk will schedule an appeal hearing at a regular meeting of the full Board of Supervisors no less than 21 and no more than 45 days following expiration of the appeal period.

Administrative Code, Section 31.16(b)(4)



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Hearing Notice:

The Clerk will inform the appellant of the hearing date and time after the closure of appeal filing period.

The Clerk will send notices to the appellant(s) and all organizations and individuals who previously have requested such notice in writing no less than 14 days prior to the date the appeal is scheduled to be heard by the Board.

The appellant shall provide the names and addresses in label format of interested parties that it wishes the Clerk to notify.

Administrative Code, Section 31.16(b)(4)

NOTE: The Planning Department shall provide to the Clerk the list of individuals and organizations that have commented on the decision or determination in a timely manner, and individuals who requested notice of an appeal, no less than 20 days prior to the scheduled hearing.

Procedural Steps:

The public, appellant, project sponsor and the Planning Department may submit written materials to the Clerk of the Board no later than noon, 11 days prior to the hearing.

Additional documentation the appellant would like the Board members to consider after the 11-day deadline must be delivered to the Clerk. Materials submitted after the 11-day deadline will be marked as "received after the 11-day deadline" and placed in the Board file.

Administrative Code, Section 31.16(b)(5)



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Decision:

The Board by a majority vote of all its members may affirm or reverse the adoption of the negative declaration.

The Board will act on the appeal within 30 days of the date scheduled or within 40 days if the Board does not hold at least three regular Board meetings within 30 days of the scheduled hearing.

If the full Board is not present, the Board may postpone a decision until the full Board is present. The Board may not postpone the decision on the appeal for more than 90 days following the expiration of the time for appeal.

Administrative Code, Section 31.16(b)(7) and (8)

Continuances:

Only the Board of Supervisors (not the Clerk of the Board) can continue or grant a written request for continuance of the appeal hearing.

A written request must be submitted by an appellant and the project sponsor, in advance, for the Board's consideration.

Administrative Code, Section 31.16(b)(7)

Contact:

Office of the Clerk of the Board
(415) 554-5184

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DATE 1/11/2016