

CEQA Appeals Code Amendment

Q&A | June 6, 2018

CPC-2018-2657-CA | ENV-2018-2658-CE



What is the purpose of the CEQA Appeals Code amendment?

The purpose of the CEQA Appeals Code Amendment is to codify a process for appealing CEQA clearances when those clearances are made by a decision-making body other than the City Council.

What is a CEQA clearance?

The California Environmental Quality Act (CEQA) is a State law requiring that all discretionary actions made by lead agencies, such as local governments or public agencies, be reviewed to assess whether there will be any impacts to the environment as a result of the project. These assessments are CEQA clearances in the form of a certified environmental impact report (EIR), an approved negative declaration (ND) or mitigated negative declaration (MND), or a determination that the project is exempt from CEQA, either categorically or statutorily (CE or SE).

Why is the CEQA Appeals Code amendment needed?

Currently, the Zoning Code is silent on the subject of CEQA appeals. However, under CEQA if a non-elected decision-making body of a lead agency, such as a Planning Commission, certifies an environmental impact report, approves a negative or mitigated negative declaration, or determines that a project is exempt, that CEQA clearance can be appealed to the lead agency's elected decision-making body, which in Los Angeles is the City Council.

In 2008, California Senate Bill (SB) 375 was enacted to coordinate land use and transportation planning to reduce greenhouse gas emissions. SB 375 created a new CEQA clearance, the Sustainable Communities Environmental Assessment (SCEA). California Public Resources Code Section 21155.2(b) requires that in order for a lead agency to approve a SCEA, a public hearing must be conducted by its legislative body. In practice in the City, this requirement has resulted in an inefficient work flow whereby the City Council must review the SCEA for a project prior to the project being considered by the applicable decision-making body, which in many cases is not the City Council. However, California Public Resources Code Section 21155.2(b)(6) allows a Planning Commission to conduct the hearing instead, if local ordinances allow direct appeals of CEQA clearances to the legislative body.

While the City, in compliance with State law, accepts appeals of CEQA clearances to the City Council, the Zoning Code does not currently contain a provision that affirmatively allows for CEQA clearances to be directly appealed to the City Council. The CEQA Appeals Code amendment remedies this situation by adding a provision to the Zoning Code to explicitly provide for the appeal of CEQA clearances to the City Council.

What are the key elements of the CEQA Appeals Code amendment?

The CEQA Appeals Code amendment establishes a new Section 11.5.13 within Article 1.5 of Chapter 1 (the Zoning Code) of the Los Angeles Municipal Code. The Section states that when a decision-maker other than the City Council certifies an EIR, approves an ND, MND, or SCEA, or determines that a project is exempt, that environmental clearance is appealable to the City Council within 15 days of the project's approval.

What are the next steps? How can I get more information or share my input?

The Planning Department will give a presentation, answer questions, and conduct a public hearing on the proposed Code amendment at 2 p.m. on June 6, 2018 at City Hall in Room 1070 (200 N. Spring Street, Los Angeles, CA 90012).

The public hearing will be held to obtain testimony from affected and/or interested persons regarding this project. The hearing will be conducted by a Hearing Officer who will consider oral testimony and any written communication received regarding this proposed Code amendment. After the hearing, a recommendation report will be prepared for consideration by the City Planning Commission.

The City Planning Commission will consider the Code amendment at a public meeting tentatively scheduled for Thursday August 23, 2018, and will make a recommendation to the City Council. The Code amendment will then be considered by the City Council's Planning and Land Use Management (PLUM) Committee, followed by the full City Council.

Please submit comments or questions to: Azeen Khanmalek at Azeen.Khanmalek@lacity.org, or (213) 978-1336. In order to be considered in the report to the City Planning Commission, comments should be received by Friday, August 10, 2018. Comments received after August 10, 2018 should be addressed directly to the City Planning Commission at CPC@lacity.org for its consideration.

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.

**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 Appeals.

A. Purpose. This section is intended to implement California Public Resources Code Sections 21151(c) and 21155.2(b)(5).

B. Appeal. When any decision-maker in any action authorized by this Chapter, other than the City Council, certifies an environmental impact report, approves 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 California Environmental Quality Act, that certification, approval, or determination may be appealed to the City Council provided the appeal is filed with the City Clerk within 15 days of the project approval becoming final and provided the appeal is filed in a form and manner required by the City Clerk.

C. Fee Limit. Notwithstanding any other provision in this Code, no fee for an appeal under this Section shall exceed \$500.

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.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By _____
KATHRYN C. PHELAN
Deputy City Attorney

Date _____

File No(s). CF 16-0297