

Article 2: Required Steps in Processing

Division 3: Notice

(“Notice” added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0301 Types of Notice

- (a) Notice of Application. A Notice of Application is required for an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, Process Five, or Process CIP-Five.
- (1) Content. The Notice of Application shall include the following information:
- (A) A general description of the proposed *development* including, when applicable, the type of permit, project name, square footage of proposed construction, and the number of proposed residential units;
 - (B) The location and size of the property that is the subject of the application;
 - (C) The community planning area in which the proposed *development* is located and the name of the contact person, if any, designated by the officially recognized community planning group;
 - (D) The name and telephone number of the City staff person to contact for additional information; and
 - (E) The name of the *applicant* and, with the consent of the *applicant*, the applicant’s address and telephone number.
- (2) Distribution. The City Manager shall mail the Notice of Application to the persons described in Section 112.0302(b), no later than 30 calendar days after the date on which the application is *deemed complete* and at least 60 calendar days prior to the first public hearing. The *applicant* shall post the Notice of Application on the property that is the subject of the application in accordance with Section 112.0304.

- (b) Notice of Future Decision. A Notice of Future Decision shall be provided for an application for a permit or other matter acted upon in accordance with Process Two or Process CIP-Two.
 - (1) Content. The Notice of Future Decision shall include the following information:
 - (A) A general description of the proposed *development* including, when applicable, the type of permit, project name, square footage of proposed construction, and number of proposed residential units;
 - (B) The location and size of the property that is the subject of the application;
 - (C) A statement that the project is exempt from CEQA (California Environmental Quality Act) or is undergoing preliminary environmental review;
 - (D) The community planning area in which the proposed *development* is located and the name of the contact person, if any, designated by the officially recognized community planning group;
 - (E) The name, telephone number, and city address of the City staff person to contact for additional information;
 - (F) The name of the *applicant* and, with the consent of the *applicant*, the applicant's address and telephone number;
 - (G) An explanation that the decision to approve, conditionally approve, or deny the proposed *development* will be made by City staff, without a public hearing, and that the *decision date* will not be less than 30 calendar days after the date of mailing the Notice of Future Decision to allow for sufficient time for public comment;
 - (H) A statement that any requests for notification of the staff's decision must be received by the City no later than 10 *business days* after the date on which Notice of Future Decision is mailed; and
 - (I) An explanation of the process to appeal the decision.

- (2) Distribution. The City staff person approving, conditionally approving, or denying an application for a permit or other matter shall mail a Notice of Future Decision to the persons described in Section 112.0302(b) no later than 30 calendar days after the date on which the application is *deemed complete* in accordance with 112.0102(b) and at least 30 calendar days prior to the *decision date*. The *applicant* shall post the Notice of Future Decision on the property that is the subject of the application in accordance with Section 112.0304.
- (c) Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, Process Five, or Process CIP-Five, or an appeal of a Process Two, Process CIP-Two, Process Three, or Process Four decision, or of an *environmental determination*. A Notice of Public Hearing shall also be provided before a decision is made by the City Council in accordance with Section 132.1555 (Overrule Process).
 - (1) Content. Except as set forth in Section 112.0301(c)(2), the Notice of Public Hearing shall include the following information:
 - (A) The general subject of the public hearing including the type of *development permit* and the name of the proposed *development*.
 - (B) The location and size of the property that is the subject of the application.
 - (C) The community planning area in which the proposed *development* is located.
 - (D) A general description of the proposed *development*, including the square footage of proposed commercial or industrial uses and the proposed number of dwelling units.
 - (E) The name of the *applicant* and, with the consent of the *applicant*, the applicant's address and telephone number.
 - (F) The identity of the decision maker holding the public hearing.
 - (G) The date, time, and place of the public hearing.

- (H) A brief description of the general procedures concerning the conduct of hearing and local actions and the procedure and requirements for filing an appeal. For Process Three or Process Four public hearings, the definition of an *interested person* for purposes of appeal.
 - (I) The name and telephone number of the City staff person to contact for additional information.
- (2) The Notice of Public Hearing for an appeal of an *environmental determination* shall include the following information:
- (A) The general subject of the public hearing, including the type of *environmental determination* and the name of the proposed *development*.
 - (B) The location and size of the *premises* that is the subject of the application.
 - (C) The community planning area in which the proposed *development* associated with the *environmental determination* is located.
 - (D) The name of the *applicant* and, with the consent of the *applicant*, the *applicant's* address and telephone number.
 - (E) The decision-maker will be the City Council.
 - (F) The date, time, and place of the public hearing.
 - (G) A brief description of the general procedures concerning the conduct of hearing and local actions.
 - (H) The name and telephone number of the City staff person to contact for additional information.
- (3) Distribution. Except as otherwise provided by the Municipal Code, the City Manager shall publish the Notice of Public Hearing in accordance with Section 112.0303, and shall mail the Notice of Public Hearing to the persons described in Section 112.0302(b), at least 10 *business days* before the date of the public hearing. Where fees are being imposed on a specific project to defray the cost of public facilities, the Notice of Public Hearing shall also be published, in accordance with California Government Code section 6062a, or as amended.

- (d) Notice of Availability of Local Coastal Program Amendment. A Notice of Availability is a written notice to advise of the availability of supporting materials for an action that will be taken by the City Council at a future date. A Notice of Availability is required as part of the certification process for *Local Coastal Program* Amendments in accordance with Section 122.0106(b).
 - (1) Content. The Notice of Availability of *Local Coastal Program* Amendment shall include the following:
 - (A) A general description of the project;
 - (B) The location of the property that is the subject of the application;
 - (C) The applicable community planning area(s);
 - (D) The name, telephone number, and city address of the City staff person to contact for additional information;
 - (E) The name of the *applicant* and, with the consent of the *applicant*, the *applicant's* address and telephone number; and
 - (F) An explanation that the final decision by the City Council will occur no sooner than 6 weeks after the date of mailing the Notice of Availability.
 - (2) Distribution
 - (A) The City Manager shall distribute the Notice of Availability at least 6 weeks prior to the City Council hearing to approve or deny an amendment to the *Local Coastal Program*.
 - (B) The City Manager shall distribute the Notice of Availability to the persons described in Section 112.0302(b) and to the public agencies required in accordance with the applicable provisions of the California Coastal Act and Guidelines for *Local Coastal Program* certification.
 - (C) The Notice of Availability may be combined into a single notice document with the Notice of Planning Commission Hearing.

- (3) A subsequent Notice of Public Hearing shall be provided in accordance with Section 112.0301(c) prior to final decision by the City Council.
- (e) Notice of Request for Airport Land Use Compatibility Overture Hearing. A Notice of Request for Airport Land Use Compatibility Overture Hearing is a written notice to advise of the availability of supporting materials for an overrule action requested in accordance with Section 132.1555 that will be acted on by the City Council at a future date.
- (1) Content. The Notice of Request for Airport Land Use Compatibility Overture Hearing shall include the following:
 - (A) A general description of the project;
 - (B) The location of the property that is the subject of the application;
 - (C) The applicable community planning area(s);
 - (D) The name, telephone number, and city address of the City staff person to contact for additional information;
 - (E) The name of the *applicant* and, with the consent of the *applicant*, the *applicant's* address and telephone number; and
 - (F) An explanation that a City Council hearing related to the matter of whether to overrule the Airport Land Use Commission in accordance with Section 132.1555(e) will be scheduled no sooner than 6 weeks following the mailing date of the Notice of Request for Airport Land Use Compatibility Overture hearing.
 - (2) Distribution.
 - (A) The City Manager shall distribute the Notice of Request for Airport Land Use Compatibility Overture Hearing at least 6 weeks prior to the first City Council hearing related to the matter of whether to overrule the Airport Land Use Commission.
 - (B) The City Manager shall distribute the Notice of Request for Airport Land Use Compatibility Overture Hearing to the persons described in Section 112.0302(b).

- (3) A subsequent Notice of Public Hearing shall be provided in accordance with Section 112.0301(c).

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 7-26-2004 by O-19303 N.S.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 10-25-2011 by O-20047 N.S.; effective 1-1-2012.)

(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

[Editors Note: Amendments as adopted by O-20634 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-20634-SO.pdf]

§112.0302 Notice by Mail

- (a) General Provisions. When the Land Development Code requires a Notice of Application, Notice of Future Decision, Notice of Public Hearing, or other mailed notice, the notice shall be postage prepaid and addressed to the persons identified in Section 112.0302(b). Notice by mail shall be considered complete at the time of deposit in the United States Mail.
- (b) Persons Entitled to Notice. Except as provided in Section 112.0302(c), the Notice of Application, Notice of Future Decision, Notice of Public Hearing, and Notice of Availability shall be mailed to the following:
- (1) The *applicant*;
 - (2) All tenant addresses located on the subject property and all addresses within 300 feet of the boundary of the real property that is the subject of the application, including each tenant address within a condominium or apartment complex.
 - (3) The owners of any real property, as shown on the latest equalized property tax assessment roll of the San Diego County Assessor, located within 300 feet of the boundary of the property that is the subject of the application;

- (4) The officially recognized community planning group, if any, that represents the area in which the proposed *development* is located, and officially recognized community planning groups that represent the area within 300 feet of the location of the proposed *development*; and
 - (5) Any person who has submitted a written request for notification of the proposed *development* to the City staff person named in the Notice of Future Decision.
 - (6) The San Diego County Regional Airport Authority (SDCRAA), sitting as the Airport Land Use Commission, California Department of Transportation, Division of Aeronautics, and the airport operator, as applicable, for any *development* within the Airport Land Use Compatibility Overlay Zone.
- (c) Alternative to Mailed Notice. If the number of tenants and owners to whom notice would be mailed in accordance with Section 112.0302(b) is greater than 1,000, notice may be given by placing a display advertisement of at least one-eighth page in a newspaper of general daily circulation within the City in lieu of mailing, unless the noticing is required for a Coastal Development Permit.
- (d) Notice Address
- (1) A notice to the *applicant* shall be mailed to the address shown on the application or as indicated on a written change of address form filed by the *applicant* with the City.
 - (2) A notice to each owner of real property located within 300 feet of the property that is the subject of the application shall be mailed to the record owner.
 - (3) A notice mailed to a tenant address shall be addressed “Tenant”.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 10-25-2011 by O-20047 N.S.; effective 1-1-2012.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

[Editors Note: Amendments as adopted by O-20634 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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§112.0303 Published Notice

When the Land Development Code requires a Notice of Public Hearing to be published, the City shall submit the Notice of Public Hearing for publication in at least one newspaper of general daily circulation within the City. A published notice is effective on the date of publication.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0304 Posted Notice

When this division requires a Notice of Application or a Notice of Future Decision to be posted, the *applicant* shall post the notice in the following manner.

- (a) Placement of Notice. The *applicant* shall post copies of the Notice of Application or Notice of Future Decision along the *street frontage* of the property that is the subject of the application. The notices shall not be spaced more than 200 feet apart. No more than three notices are required for any property. If the *street frontage* is less than 200 feet, only one notice is required.
- (b) Verification of Posting. The *applicant* shall verify in writing, on a form prescribed by the City, that the notice has been posted in accordance with this section, within 5 *business days* of the date on which the *applicant* receives the notice from the City.
- (c) Error in Posting. The posting required by this section is intended only to supplement other notice requirements of this division. A decision on an application for a permit, map, or other matter shall not be invalidated because of any error or irregularity in the posting of a notice in accordance with this section.
- (d) Maintaining Posted Notices. It is unlawful to deface, damage, move, or remove a notice posted in accordance with the applicable provisions of the Municipal Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

§112.0305 Notice for Land Use Plans or Zoning Ordinances

When a *land use plan*, a zoning ordinance, or a rezoning ordinance is to be considered at a public hearing, the City Manager shall submit a Notice of Public Hearing for publication as set forth in Section 112.0303 to be published at least 10 *business days* before the date of the public hearing. The Notice of Public Hearing shall include the date, time, and place of the hearing, the identity of the hearing body, a general explanation of the matter to be considered, and a general description of the location of the real property, if any, that is the subject of the hearing. This notice shall be provided in addition to the other notices required by this division.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

§112.0306 Notice for Coastal Development Permits

All notices for a Coastal Development Permit shall include a statement that the *development* is within the Coastal Overlay Zone, the date of filing of the application and the number assigned to the application. When a Coastal Development Permit is to be considered under Process Two, Process CIP-Two, or at a public hearing, the City Manager shall mail a Notice of Future Decision or Notice of Public Hearing to the California Coastal Commission and all persons requesting notice on Coastal Development Permits. This notice shall be provided in addition to the other notices required by this division. Notices for appealable Coastal Development Permits shall include provisions for appeals to the California Coastal Commission.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

§112.0307 Notice for Local Coastal Programs and Implementing Ordinances

- (a) When a *Local Coastal Program* amendment or an implementing ordinance for the *Local Coastal Program* is to be considered at a public hearing, the City Manager shall mail a Notice of Public Hearing to the persons and agencies required by California Coastal Commission regulations, at least 10 *business days* before the date of the public hearing. The City Manager shall also submit a Notice of Public Hearing for publication as set forth in Section 112.0303 to be published at least 10 *business days* before the date of the public hearing.

- (b) When a *Local Coastal Program* amendment is to be considered at a public hearing in connection with a proposed *development*, the City Manager shall also mail a Notice of Public Hearing to the persons identified in Section 112.0302(b).
- (c) Notice of availability of a Local Coastal Program amendment shall be provided in accordance with Section 112.0301(d).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

§112.0308 Notice for Appeal Hearings

The notice for appeal hearings of Process Two, Process Three, Process Four, or Process CIP-Two decisions, or of an *environmental determination* shall be provided in accordance with sections 112.0301(c), 112.0302, and 112.0303.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 7-26-2004 by O-19303 N.S.)
(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

§112.0309 Failure to Receive Notice

The failure of any person to receive notice given in accordance with this division and the State of California Planning and Zoning Laws shall not constitute grounds for any court to invalidate any action taken by the City for which the notice was provided and such action shall not be held invalid for noticing errors in the absence of a court's final determination of invalidity on that basis under the standard set forth in California Government Code section 65010(b).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

§112.0310 Notice of Right to Appeal Environmental Determination

In accordance with Chapter 12, Article 8, Division 2, the Planning Director implements the California Environmental Quality Act (CEQA) and the State CEQA Guidelines within the City of San Diego. While not required by CEQA, in some circumstances the City requires the posting of a Notice of Right to Appeal Environmental Determination for activities that are subject to CEQA.

- (a) A Notice of Right to Appeal Environmental Determination shall be posted for an *environmental determination* for the following:
 - (1) A determination that a project is exempt from CEQA pursuant to a categorical exemption, that an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, or is exempt pursuant to State CEQA Guidelines Article 12.5 in accordance with State CEQA Guidelines Sections 15061(b)(2), 15061(b)(3), or 15061(b)(5);
 - (2) A determination that a project is exempt from CEQA pursuant to a statutory exemption, e.g. CEQA Guidelines 15061(b)(1); and
 - (3) A decision to adopt or certify an environmental document that the City Manager approves or decides to carry out without a public hearing in accordance with his powers under City of San Diego Charter Section 28, including environmental documents for projects decided in accordance with Process Two.

- (b) A Notice of Right to Appeal Environmental Determination is not required to be posted for the following:
 - (1) Activities that are not subject to CEQA pursuant to CEQA Guidelines Section 15060(c) and 15061(b)(4);
 - (2) Projects with an environmental document subject to a Hearing Officer or Planning Commission action to adopt or certify; and
 - (3) Projects with an environmental document or an exemption determination subject to City Council approval.

- (c) A Notice of Right to Appeal Environmental Determination shall include:
 - (1) An identification of the project, including its common name where possible and its location;
 - (2) A brief description of the project;
 - (3) A statement regarding the type of *environmental determination*;
 - (4) A brief statement to support the reasons for the *environmental determination*, including citation to applicable State CEQA Guidelines or statutes; and

- (5) The date the Notice of Right to Appeal Environmental Determination is posted and the time for filing an appeal in accordance with Section 112.0520(b).
- (d) A Notice of Right to Appeal Environmental Determination shall be posted on the date of the *environmental determination* as follows:
 - (1) At the City of San Diego, Development Services Department in a location easily accessible to the public; and
 - (2) On the City of San Diego's website.
- (e) A Notice of Right to Appeal Environmental Determination shall be distributed via electronic mail (or by U.S. mail if electronic mail is unavailable) on the date of the *environmental determination* as follows:
 - (1) To the Council Office for the Council District in which the proposed project is located;
 - (2) To the officially recognized community planning group, if any, that represents the area in which the proposed project is located; and
 - (3) To any person who has submitted a written request for notification of the proposed *development* to the City staff person named in the Notice of Future Decision.
- (f) A Notice of Right to Appeal Environmental Determination posted in accordance with Section 112.0310(d) shall remain posted for 10 *business days*.

(Added 7-26-2004 by O-19303 N.S.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)