

City of Oxnard

Analysis of Proposed Ballot Initiative
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Background

On December 17, 2019, the Oxnard City Council considered whether to call an election for four initiatives that qualified for the ballot based upon a random sampling of 500 signatures submitted for each initiative. The four initiatives were:

- **"New Requirements Regarding the Way in Which City Council Meetings, Council Committees and Other City Legislative Bodies Are Run"**
- **"Early Termination of Measure O Sales Tax If Specific Pavement Standards for City Streets and Alleys Are Not Met; Extension of Measure O Sales Tax For Additional Five-Year Periods If Specific Pavement Standards Are Met"**
- **"Expansion of Duties of Elected City Treasurer By Appointing the City Treasurer as Director of Finance and Giving the City Treasurer Additional Duties Pursuant to that New Role: Authority Over City's Finance Department; Selection and Oversight of Internal Auditor; Establishment, Preparation and Submittal of Monthly Financial Reports; Establishment, Preparation and Submittal of Monthly Performance Measurements for City Departments; and Preparation and Submittal of Annual City Budget"**
- **"Expedited Processing of Certain City-Issued Development Permits If Projects Meet Specific Requirements and Project Applications Are Filed By Specified Professionals Who Have Received Required Training Pursuant to the New Program; Program Includes Audits of Approved Permits and Appeals of Certain Denied Permits and Adverse Certification Actions of the Specified Professionals to Newly Created Appeals Board and to the City Council"**

Background

Instead of calling the election at the December 17, 2019 meeting, the City Council ordered the preparation of a report pursuant to Elections Code Section 9212 for each of the four initiatives that qualified for the ballot.

The “9212 Report” is to address the impacts or effects of the initiatives on the City, including fiscal impacts. This report is to be presented to the City Council no later than 30 days after the City Clerk certified to the City Council the sufficiency of the petitions for each of the initiatives.

After the 9212 Report is presented to the City Council, the City Council then has the option of adopting the ordinance proposed by each of the initiatives within 10 days or order an election pursuant to Elections Code Section 1405.

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Initiative Impacts | Categories

- The “**Expedited Processing of Certain City-Issued Development Permits**” Initiative will impact the City in two broad categories

Administrative Impacts

Fiscal Impacts

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Expedited Processing Initiative

Initiative Code Section	Action
ELIGIBLE PROJECTS	<p>SEC. 26-10. ELIGIBLE PROJECTS. Any Project, other than those set forth in Section 26-11, are eligible to seek approval through this chapter.</p> <p>“Project” means the work identified in a permit application and any accompanying plans</p> <p>SEC. 26-11. DISCRETIONARY PROJECTS. A Project undertaken in response to a code enforcement issue may be eligible to seek approval through this chapter, in the discretion of the Department. lilig</p>

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Expedited Processing Initiative

Initiative Code Section	Action
Section 2.26.20 PROFESSIONALS ELIGIBLE FOR CERTIFICATION	<p>(A) Be any one of the following:</p> <ol style="list-style-type: none"> (1) A professional architect or civil engineer; (2) A professional landscape architect, (3) A professional soils engineer, geotechnical engineer or geologist, (4) A mechanical, fire protection or electrical engineer, or (5) A licensed professional, such as a contractor or certified interior designer <p>(B) Be licensed and in good standing with the State of California at the time of application, and continuously for the five years prior to application;</p> <p>(C) Successfully complete a training program approved by the City; be certified by an outside organization approved by the City in a discipline relevant to the projects to be submitted; or successfully complete the Economic Growth Institute's Permit Simplicity Training Program.</p>

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Expedited Processing Initiative

Initiative Code Section	Action
SEC. 3.26-21. PERMIT SIMPLICITY TRAINING	The city shall facilitate a training class as part of the Permit Simplicity Certified Professionals program. The class shall provide instructions about: <ol style="list-style-type: none"> (1) The Permit Simplicity Certification permit process; (2) Examining plans for compliance with the City's building codes, and other applicable laws pertaining to public health and safety; and (3) The administrative aspects of permit processing for which the Permit Simplicity Certified Professional is responsible when certifying plans.
STRUCTURAL PEER REVIEW	"Structural Peer Reviewer" means a reviewer who is on an approved list expressly for the purpose of providing structural peer reviews for the Permit Simplicity Certification Program. The City shall have the sole discretion to determine who shall be included on the list, and all structural peer reviewers must: (1) be a licensed structural engineer in the state of California, and (2) have attended either the Permit Simplicity Certification training class or another class approved by the City.

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Expedited Processing Initiative

Initiative Code Section	Action
Sec 3.26.2 (D) BUILDING BOARD OF APPEALS	Adverse audit results, suspensions or revocations of Permit Simplicity Certified Professional status are subject to appeal to the Building Board of Appeals. If the Permit simplicity Certified Professional has reason to believe that adverse audit results, or the suspension or revocation of Permit simplicity Certification privileges is not warranted, the Permit simplicity Certified Professional has the right to request in writing, within ten (10) business days of the date on which notice is mailed, a hearing before the Building Board of Appeals.
Sect 26-36 (D) (1) CERTIFICATION STATEMENT	Certification statement, which shall be wet-inked in black or plotted to the cover sheet: "I hereby certify that any and all included drawings are prepared by me, under my supervision, or reviewed by me and to the best of my professional knowledge conform to the City's building codes, and other applicable laws pertaining to public health and safety."

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Expedited Processing Initiative

Initiative Code Section	Action
PERMIT REVOCATION	Building Official, or his or her designee, may revoke any permit issued under the Permit Simplicity Certification Program at any time if the Building Official, or his or her designee, believes that the permitted project or any portion thereof poses a threat to public health or safety
SEC. 26-33. FIELD REVISIONS	<p>There are different procedures that must be followed for making field revisions. The procedure that must be followed is dependent on whether it is a voluntary change due to a change in construction material, design or in response to field conditions; or a mandatory change due to an inspector identifying a code violation or plans missing critical information.</p> <p>(A) Voluntary field revisions. The Permit Simplicity Certified Professional shall submit a revised application in accordance with the procedures set forth in this chapter for an initial application.</p> <p>(B) Mandatory field revisions</p>

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Expedited Processing Initiative

Initiative Code Section	Action
SUBMITTAL SYSTEM TO BE DEVELOPED	The Department shall establish the system for receiving applications, plans, forms, letters and other documents in connection with the Permit Simplicity Program
AUDIT AND SUSPENSION OF CERTIFICATION	<p>(A) The first four projects submitted by the Permit Simplicity Certified Professional are automatically selected for audit. (B) Any project submitted where the Permit Simplicity Certified Professional has not been previously audited in the past twelve months shall be automatically selected for audit. (C) Any project submitted by a Permit Simplicity Certified Professional that failed an audit twice shall automatically be selected for audit during the following twelve months. (D) Any project submitted by a Permit Simplicity Certified Professional during the twelve months after having been reinstated following a suspension from the program shall automatically be selected for audit during the following twelve months. (E) Any project over 100,000 square feet or greater than three stories shall be automatically selected for audit. (F) A random sample of between 10% and 20% of remaining Permit Simplicity Certified Projects shall be selected for audit</p>

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Comparable Cities | Expediting Processing

City	Eligible Permit Types	Permits not Eligible
Phoenix, AZ	Interior alterations and tenant build-outs of business, mercantile, factory, assembly, and storage; New construction of residential or commercial buildings with occupied floor less than 75 feet above Fire Department access; Landscape inventory, salvage, and new landscape plans; Grading and drainage plans (limited), storm water management plans, and parking lot site plans	Planning, zoning, off-site civil, fire; no hazardous materials, limited assembly occupancy; no flood plain;
Elk Grove, CA	Previous Program: Tenant improvements for retail, office and warehouse buildings	Food establishments or change in use; Planning, Fire, School Districts and Utilities
	Current: Program Terminated	
Sacramento County, CA	Previous Program: Tenant improvement projects that are 5,000 square feet or less	Must obtain sign-off or approval from all necessary departments and agencies prior to submittal
	Current: Program Terminated	
Rancho Cordova, CA	Considered but didn't pursue implementation	
Riverside, CA	Re-Roofs and Water Heaters (Self-certification program)	All other permit types

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Comparable Cities | Permit Expediting

	Proposed Oxnard Program	Phoenix, AZ	Elk Grove, CA (Prior to ending program)	Sacramento County - CA (Prior to ending program)	Riverside, CA
Eligible Permits					
Tenant Improvement for retail, office and warehouse buildings	✓	(✓)	✓	(✓)	
New construction of residential and commercial	✓	(✓)			
Grading and drainage	✓	(✓)			
Storm water management plans	✓	✓			
Parking lot site plans	✓	✓			
Re-roofs	✓				✓
Water Heaters	✓				✓
Hazard Materials	✓				
Drainage	✓				
Assembly Occupancies - limited	✓				

(✓) - allowed with limits

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Administrative Impacts

- Building Official is responsible for public safety associated with construction
 - Authorized to enforce the provisions of adopted Building Code.
 - Authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions.
 - Shall receive applications, review [construction documents](#) and issue [permits](#) for the erection, and [alteration](#), demolition and moving of buildings and structures.
 - Shall inspect the premises or shall have the authority to accept reports of inspection by [approved agencies](#) or individuals for which such [permits](#) have been issued and enforce compliance with the provisions of this code.

The proposed Initiative removes these checks and balances and assigns much of this authority to a self-certified professional

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Administrative Impacts

- High Risk Factors in California
 - Seismic
 - Flood
 - Fire
 - Accessibility/ Certified Accessibility Specialist (CAsp)
 - Energy Code

The proposed Initiative removes checks and balances necessary to ensure safety with risk factors unique to California

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Administrative Impacts

- Building Official is responsible for public safety associated with construction
 - 35% of current City of Oxnard plan checks have significant code compliance issues in the first check
 - Error examples:
 - fire protections missing
 - emergency exits missing
 - seismic connections not included
 - No CASp peer-review
 - 50% have “serious” accessibility issues in first plan check.

The proposed Initiative removes these checks and balances and assigns much of this authority to a self-certified professional

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Administrative Impacts

- Program Audit system could cover most permits issued
 - Effectively allowing the conducting of plan review after permits are issued
 - If plan corrections are discovered after permit is issued there maybe grave financial harm to the applicant
- Phoenix Audits - of 252 Audits, 39 failed (28%)
 - Random Audits (under 25,000 sq.ft.) - 17% failed
 - Automatic Audits (>25,000 sq.ft.) - 21% failed

Audit Systems provides uncertainty for staffing needs and developer timelines and have grave financial harm if a “stop-work order” is necessary

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Administrative Impacts

- Building Inspectors' role is to ensure construction complies with approved plans
 - Without City Plan reviews conducted, more issues are likely to be raised in the field.
 - Initiative does not speak to “Mandatory Field Revision” procedures within Section 26-33 “Field Revisions”.
 - When issues are found during inspections, often work is stopped while a solution is determined or a change in plans is reviewed
 - This high potential for stopped work in the field is disruptive and expensive to the applicant and delays and impacts workflow on other permits as these become urgent items to resolve.

There may be grave financial harm if a “stop-work order” is necessary

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Administrative Impacts

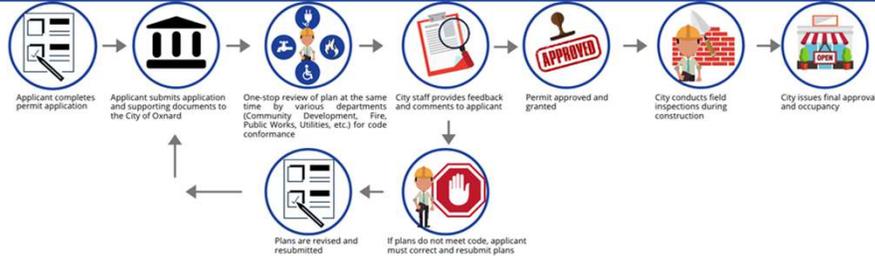
- Simplicity Application eliminates the “One Stop Shop”
 - Requires all other department pre-approvals (Fire, Public Works, Electrical, etc) prior to submittal for a “one day permit”
 - Current Oxnard process provides certainty with permit review timelines
- Program Requires plans to be stamped “reviewed by.....” even though plans are not actually checked/reviewed for code compliance

The Initiative will prevent the City from conducting concurrent reviews and will cause delay and confusion for the applicant

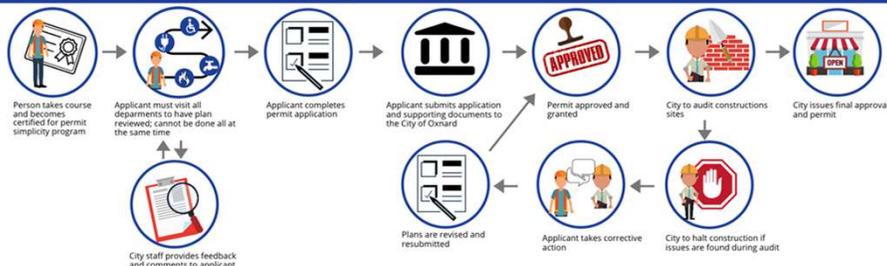
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Administrative Impacts

Current City of Oxnard Permit Process



Proposed Permit Simplicity Permit Program



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Administrative Impacts

- Creates a new layer of bureaucracy
 - Changes the plan check engineer to a program developer and regulator
- Staff will move from a facilitator to a regulator and trainer
 - Must develop and provide a Training Program
 - Must create a separate application system/tracking and implementation program
 - Must manage & track certified professionals eligibility

Eliminates City/Applicant partnership strategy to work toward permit issuance together

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Fiscal Impacts

- **Additional, or different, staff resources:**
 - to conduct one-day review of Simplicity compliance, depending on the level of participation
 - to implement audit provisions
 - for additional inspection personnel given the changing role of inspections in the field
 - to development trainings, permit procedures/tracking, creation and staffing for an Appeals Board, and creation and monitoring for a Structural Peer Review lists
- **Should the City not conduct plan checks, the City's Insurance Service Organization (ISO) rating will likely go down and impact resident/business insurance costs.**

The fiscal impacts of the initiative depends in large part on how the development community responds to this major shift in process and review responsibility

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Impacts | Summary

Administrative Impacts

ELIMINATES ONE-STOP SHOP

- Proposed initiative will disrupt conducting concurrent plan check
- Will require all other department pre-approvals (Fire, Public Works, Electrical, etc) prior to submittal for a "one day permit"

CREATES A NEW LAYER OF BUREAUCRACY

- City must develop training program and host ongoing training sessions
- Create a new tracking systems for ensuring the following: permit applications; building official approvals and paperwork
- Track the eligibility of certified professionals / building officials and ensure their compliance with program

ELIMINATES SAFEGUARDS

- Ignores key risk and compliance factors such as seismic, fire and flood, accessibility and energy

Financial Impacts

REQUIRES CITY TO HIRE MORE STAFF

- City would have to budget for new staff

CREATES POTENTIALLY ADVERSE BUDGET IMPACTS FOR APPLICANTS

- Due to the audit structure of the initiative, there is a risk that projects could be shut down during construction if code violations are discovered. Applicants will then have to revise and resubmit plans in order to receive approvals to re-start construction

INCREASES POTENTIAL LEGAL EXPOSURE

- It removes checks and balances and assigns much of this authority to a self-certified professional
- Structure of initiative and ambiguous wording could be subject to litigation from applicants

DECREASES CITY'S INSURANCE RATING

- City's ISO rating will likely go down and increase resident/business insurance costs

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