

Article 8: Implementation Procedures For The California Environmental Quality Act and the State CEQA Guidelines

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

Division 2: Procedures for Determination of Exemption or Type of Environmental Document Required

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

§128.0201 Purpose of Procedures for Determinations of Exemption or Type of Environmental Document Required

The purpose of these procedures is to implement CEQA and the State CEQA Guidelines within the City of San Diego, to identify the types of actions that are exempt from environmental review, consistent with the requirements of CEQA and the State CEQA Guidelines, and for nonexempt actions, to provide procedures for determining the type of environmental document that is required.

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

§128.0202 Incorporation of CEQA by Reference Actions That Require Compliance with CEQA

Except as otherwise provided, CEQA and this article shall apply to the following discretionary activities located within the City of San Diego:

- (a) Activities directly undertaken by the City such as construction of *streets*, bridges, or other public *structures* or adoption of plans and zoning regulations;
- (b) Activities financed in whole or in part by the City of San Diego; and
- (c) Private activities that require approval from the City of San Diego such as adoption and amendment of *land use plans* and the *Local Coastal Program*, zoning and rezoning actions, *development* agreements, *subdivision* activities, *development* and use permits, and variances.

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

§128.0203 Actions Exempt from CEQA

An action or activity may be exempt from CEQA if it meets any of the following conditions:

- (a) The activity is not a project as defined in the State CEQA Guidelines, Section 15378;
- (b) The project has been granted an exemption by statute (State CEQA Guidelines, Article 18, commencing with Section 15260) or by categorical exemption (State CEQA Guidelines, Article 19, commencing with Section 15300).
 - (1) CEQA exempts ministerial actions by statute. City approval decided in accordance with Process One is a ministerial action, including issuance of a *construction permit*. The following are *construction permits*: Building Permits, Plumbing Permits, Electrical Permits, Mechanical Permits, Grading Permits, Public Right-Of-Way Permits, Demolition Permits, Removal and Relocation Permits, and Sign Permits.
 - (2) Activities within the City of San Diego that typically are exempt by statute or categorical exemption from CEQA are provided in the CEQA Administrative Guidelines of the Land Development Manual.
- (c) The activity is covered by the general rule in the State CEQA Guidelines, Section 15061(b)(3), that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0204 Environmental Review for Extensions of Time

An application for an extension of time to a previously approved *development permit* or other discretionary action is subject to environmental review. A previously certified environmental document may be reused in accordance with Section 128.0209. The extension of time shall be evaluated in accordance with State CEQA Guidelines, Sections 15162 through 15164 to determine the appropriate environmental document, if any, necessary to address the issues. An extension of time to a final *subdivision map*, authorized pursuant to the *Subdivision Map Act*, Section 66452.6(a), is a ministerial action and is exempt from the requirements of CEQA.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0205 How to Apply for Environmental Review

An application for a *development permit* made in accordance with Section 112.0102 also serves as the application for environmental review. A separate application for an Environmental Initial Study may be required for a discretionary action that does not require a *development permit*.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0206 Establishment and Collection of Fees or Deposits

Fees and deposits may be charged for environmental review in accordance with Section 112.0201. Any party proposing a project subject to the provisions of this article shall be required to submit the required fees or deposit in accordance with Section 112.0202.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0207 Review for Exemption from the Requirements of CEQA

(a) As part of the preliminary review of an activity proposed within the City of San Diego, the Development Services Director shall determine whether the proposed activity is exempt from CEQA as described in Section 128.0203 and in the State CEQA Guidelines, Section 15061 and shall file a Notice of Right to Appeal Environmental Determination in accordance with Section 112.0310.

(b) A determination by the Development Services Director that a project is exempt from CEQA, as described in State CEQA Guidelines section 15061(b)(2) or (3), shall be subject to the appeal procedures in section 112.0510.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

(Amended 7-26-2004 by O-19303 N.S.; effective 8-25-2004)

§128.0208 Determination of Type of Environmental Document

(a) After an application for a discretionary permit or action is *deemed complete*, the Planning and Development Review Director shall take one of the following actions:

(1) Determine that the project is exempt from CEQA as described in the State CEQA Guidelines, Section 15061;

(2) Conduct an Environmental Initial Study to determine what type of environmental document will need to be prepared as described in the State CEQA Guidelines, Section 15063; or

- (3) Omit the Environmental Initial Study and proceed directly to the preparation of an Environmental Impact Report (EIR) if it is clear that an EIR will be required for the project, consistent with the State CEQA Guidelines, Section 15060.
- (b) The following types of environmental documents may be required consistent with CEQA, depending on the specific circumstances:
 - (1) A Negative Declaration;
 - (2) A Mitigated Negative Declaration;
 - (3) An Environmental Impact Report, including a Supplement; or
 - (4) An Addendum to a previously certified environmental document.
- (c) The Planning and Development Review Director shall notify the *applicant* of the scope of the required environmental document and the additional information required, if any, in accordance with the State CEQA Guidelines, Section 15060.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0209 When a Previous Environmental Document May Be Used

- (a) A previously certified EIR or Negative Declaration, including any supplement or addendum, may be used when changes in the project or circumstances have occurred, unless the Planning and Development Review Director determines that one or more of the situations identified in the State CEQA Guidelines, Section 15162, exist.
- (b) If a previously certified document is to be used, the Planning and Development Review Director shall provide the decision-making body with an explanatory cover letter stating that none of the conditions specified in the State CEQA Guidelines, Section 15162, exists.
- (c) An EIR prepared in connection with an earlier project may be used for a later project, if the circumstances of the projects are essentially the same and are consistent with the State CEQA Guidelines, Section 15153.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0210 When a National Environmental Policy Act (NEPA) Document or Joint Document May Be Used

- (a) NEPA applies to projects that are carried out, financed, or approved in whole or in part by federal agencies. If a project will require compliance with both CEQA and NEPA, the Planning and Development Review Director should use the NEPA document rather than preparing a separate CEQA document if the following two conditions exist:
- (1) The NEPA document would be prepared before the CEQA document would otherwise be completed for the project; and
 - (2) The NEPA document complies with the provisions of the State CEQA Guidelines. Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis would need to be added, supplemented, or identified before an Environmental Impact Statement (EIS) could be used as an EIR.
- (b) If the NEPA document would not be prepared by the federal agency by the time the City of San Diego would need to consider an environmental document consistent with this article, the Planning and Development Review Director should try to prepare a combined NEPA-11 CEQA document. Preparation of this joint environmental document shall involve the federal agency to avoid the need for the federal agency to prepare a separate document for the same project.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)