

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The California Environmental Quality Act (CEQA) is one of the most important state environmental protection laws affecting project-related processing and decision-making in the public sector. CEQA is an evolving policy that has been updated by the state legislature and interpreted by the courts many times over the years. As CEQA is mainly a process, this Info-Bulletin outlines the city's processing requirements and CEQA's role in development. Visit our [CEQA Website](#) to review the different city documents referenced in the bulletin.

BACKGROUND

The California Environmental Quality Act, which became law in 1970, is our state's landmark environmental law. CEQA applies to all discretionary actions undertaken or funded by a public agency. Its basic purpose has been to foster transparency and integrity in public decision-making so that consideration is given to preventing or minimizing damage public decisions may have on the environment before the action is approved or carried out. CEQA's fundamental goals are relatively basic:

- Disclose the potential significant adverse impacts of a project to the public and decision-making body.
- Prevent or minimize damage to the environment through project alternatives and mitigate significant impacts when feasible.
- Offer opportunities for the public and other agencies to become involved in the review process.
- Require decision-makers to consider the balance between development and the environment.



While there are several elements and components to CEQA that help determine whether a project may adversely impact the environment and what requirements need to be met if impacts are identified, CEQA regulatory authority essentially comes from two complimentary state code sections.

CEQA STATUTE

CEQA's legislative authority is rooted within Public Resources Codes (PRC) §21000 – 21006 and sets forth the overarching regulation and policy for environmental review and protection. This is referred to as CEQA statute.

CEQA GUIDELINES

CEQA Guidelines, which are periodically updated by the [Governor's Office of Planning & Research \(OPR\)](#) and the [California Natural Resources Agency \(CNRA\)](#), are state administrative regulations that public agencies follow in order to show compliance with CEQA statute, applicable court decisions, and practical planning considerations.

The regulatory authority for the guidelines are found in the CA Code of Regulations (CCR) §15000 - 15387, which set forth the steps on how to determine whether an activity is subject to environmental review, what steps are involved in the environmental review process, and the required content of environmental documents.

CARLSBAD ENVIRONMENTAL PROCEDURES

The city adopted [§19.04](#), which establishes the procedures for evaluating the environmental impacts of public and private projects and for administering the city's responsibility under CEQA. This chapter is intended to supplement state CEQA guidelines.



BASIC ELEMENTS OF CEQA REVIEW

CEQA is not a permit, and it does not grant cities any new powers to regulate property. CEQA is a process through which public agencies, project developers, and general public must evaluate a project, understand its environmental impacts, and develop measures to reduce those impacts which must be publicly vetted before a decision can be made. And as with any process, there are steps that must be followed.

ONLY “PROJECTS” ARE SUBJECT TO CEQA

When the term “CEQA review” is used, visions of technical studies and detailed analysis often come to mind. In actuality, however, many city actions and activities are either exempt from, or otherwise do not require review under CEQA.

Before initiating any environmental review, the city must first determine whether the action or activity being considered even requires review under CEQA. City actions and activities requiring review pursuant to CEQA are referred to as a “project.” Sections [§21065](#), [§15378](#), and [§15060\(c\)\(3\)](#) provide definitions, but generally, a CEQA project includes any action taken by a public agency where discretion is applied and if approved, the action has the potential to cause one of the following:

- A direct physical change in the environment; or,
- A reasonably foreseeable indirect physical change in the environment.

CERTAIN PROJECTS ARE EXEMPT FROM CEQA

If the action is found to be a project, the city then determines whether the project is exempt under CEQA, which there are three types of exemptions to consider.

• Statutory Exemptions

Statutory exemptions ([§21080](#)) are created by the state legislature and found in CEQA Guidelines [§15260-15285](#). A project that falls within a statutory exemption is not subject to CEQA even if it has the potential to significantly affect the environment. Common statutory exemptions applied to city projects include the following:

- Ministerial (building) permits ([§15268](#))
- Business licenses ([§15268](#))
- Feasibility & planning studies ([§15262](#))
- Emergency projects following disaster ([§15269](#))
- Approval of new permit fees ([§15273](#))

• Categorical Exemptions

Unlike statutory exemptions, which are adopted by the California Legislature, state law ([§21084](#)) directs the CRNA to adopt classes of projects that are determined to not have a significant effect on the environment ([§15300-15333](#)). Common categorical exemptions applied by the city include the following:

- In-fill development ([§15332](#))
- Leasing agreements ([§15301](#))
- Minor alteration to land ([§15304](#))
- Minor alteration of existing structures ([§15301](#))
- Minor land divisions ([§15315](#))

However, unlike statutory exemptions, under state law a project that falls within a categorical exemption may still not be exempt from CEQA under the following conditions:

- Reasonable possibility of a significant effect on the environment due to unusual circumstances;
- Significant cumulative impacts from projects of the same type will result; or
- The project will have impacts on a “uniquely sensitive environment.”

Regarding the above third condition, city code ([§19.04.070.B](#)) provides specificity on what qualifies as “uniquely sensitive environment” such as impacts to sensitive, rare, endangered, or threatened habitat, wetlands, hazardous materials, archaeological or cultural resources, or other factors requiring special review.

• Common Sense Exemptions

Common Sense Exemptions ([§15061\(c\)](#)) apply only to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.



INITIAL STUDY

If the project does not fall under an exemption, the city then undertakes an “initial study” to determine what type of environmental document is needed to support the processing of the application. An initial study is a preliminary analysis comprised of a series of questions prepared by the “lead agency” (typically, the city) to determine if the project may have a significant impact on the specified environmental resource, thereby requiring mitigation measures or project changes in order to reduce the impacts to a level of less than significant (PRC [§21080\(c\)](#); Guidelines [§15063–15065](#))

Generally, the city utilizes the initial study template found in [Appendix G](#) (Environmental Checklist Form) of the CEQA Guidelines to assist city staff and environmental consultants with the preparation and analysis of environmental documents. Included in the checklist are environmental issues presented in the form of questions that are intended to identify the potential impacts of proposed projects.

In terms of addressing potentially significant adverse impacts, the impact threshold questions provided in Appendix G may be used as guidelines to determine the level of significance for any given impact, provided that they are relevant to a project's environmental effects and supplemented as necessary to address additional environmental effects specific to the proposed project, the project site, and its surroundings.

The preparation of the initial study should be based on a comprehensive project description, initial research, site visit, technical studies (if determined necessary), and other available and relevant documentation.

GUIDELINES FOR DETERMINING SIGNIFICANCE

So, when is an impact “significant?” Good question. To assist in determining whether a specific impact is significant under CEQA, public agencies are encouraged to develop administrative guidance often referred to as thresholds of significance (Thresholds). Thresholds help establish a clear bright line or standard for when a city determines an impact is significant under CEQA. That is, a threshold for a given environmental impact defines the level above which the city will normally consider impacts to be significant, and below which it will normally consider impacts to be less than significant.

Thresholds may be defined either as quantitative or qualitative standards, or sets of criteria, whichever is most applicable to each specific type of environmental impact. For example, quantitative criteria are often applied to traffic, air quality, and noise impacts, while aesthetic impacts are typically evaluated using qualitative thresholds.

A city may gather and apply thresholds of significance from a variety of places including, but not limited to, general plan policies, ordinances, resolutions, other agencies’ thresholds, and industry standards. Often thresholds change in response to CEQA case law; refinement of recognized scientific analysis of impact thresholds; or changes in federal, state, and local regulations. In some cases, a city may utilize project-specific significance thresholds.

For Carlsbad, the city developed and maintains [Significance Determination Thresholds](#), which provide general technical guidance in evaluating the potential significance of a project’s impact on each environmental issue listed in the Environmental Checklist Form.





SCREENING CRITERIA

In another method similar to creating significance thresholds, public agencies are encouraged to develop “screening criteria” to help quickly and easily screen out projects that are likely not to cause significant environmental impacts. The city has developed and maintains [Screening Criteria](#) for a few resources.

Projects that meet established screening criterion are presumed to not have a significant environmental impact on a particular environmental resource and therefore do not require additional mitigation. In some cases, applicants may need to prepare an analysis to prove that their project meets established screening criteria.

Projects that do not meet the screening criteria may be required to complete additional analysis (technical studies) and compare the findings with the appropriate threshold of significance and mitigate the impacts accordingly.

TECHNICAL STUDIES

Technical studies are often required to assist in preparing the initial study, or to determine and document whether a project has a less than significant impact. These studies may be prepared by staff or an outside consultant. If prepared by a consultant, the study shall be reviewed by city staff, or a third-party consultant hired by the city.

To help ensure the quality, accuracy, and completeness of technical reports and increase the efficiency of the environmental review process and avoid unnecessary time delays, the city encourages consultants to follow the [Report Format and Content Requirements](#) for each study type as established by the County of San Diego.

PREVENTING ENVIRONMENTAL DAMAGE

If potential adverse environmental impacts are identified, the CEQA process next attempts to identify ways to prevent or reduce these impacts to a level of less than significant by requiring consideration of mitigation measures. Pursuant to [CCR §15370](#), mitigation includes:

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

Project revisions may also be utilized to reduce impacts, with changes in design, location, operations, or scope. Effective project revisions will achieve any or all of the above objectives. In reaching its conclusions, the city must use its own independent and objective judgment, based on the information before it, to determine that “clearly no significant effect on the environment would occur” (PRC [§21064.5](#)).

Further, there must be evidence in the record as a whole to support the conclusion that the level of mitigation or project revision sufficiently avoids or eliminates a potential significant effect. Upon approval, the city must also adopt a mitigation monitoring or reporting program (CCR §15097).



TYPES OF CEQA DOCUMENT PREPARED

Following completion of the initial study, the public agency then must determine what type of environmental document to prepare. [CCR §15063, 15365](#); PRC [§21080.1, 21080.3](#)

o Negative Declaration (ND)

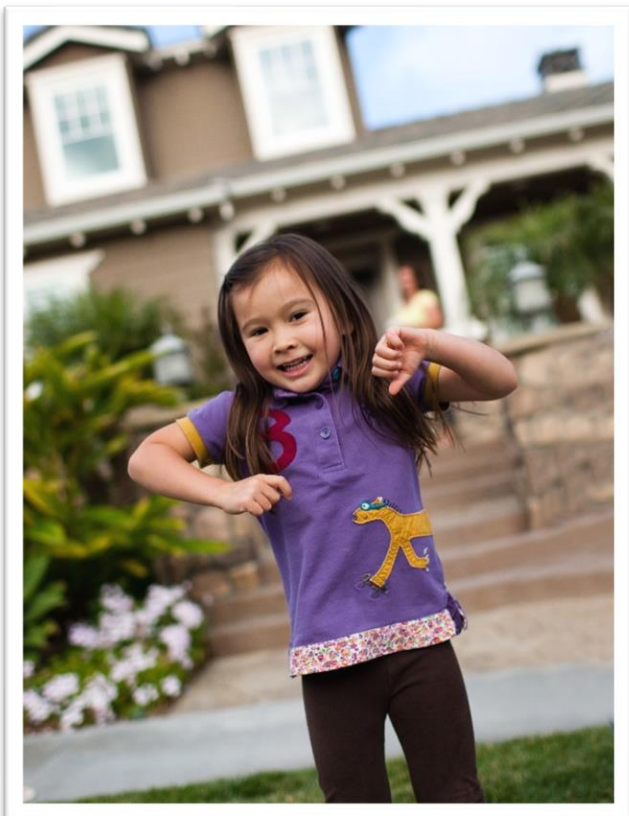
This document is used for projects that will not result in any significant impact on the environment. CCR [§15071](#)

o Mitigated Negative Declaration (MND)

This document is reserved for projects where specified mitigation measures are necessary in order to reduce the impacts to a level of less than significance. CCR [§15071](#)

o Environmental Impact Report (EIR)

This document is often reserved for projects that cannot fully mitigate their impacts to a level of less than significance. In order to approve the project, the city must find, supported by substantial evidence, that the economic and social benefits of the project override any significant environmental impacts that would result from the project, commonly referred to as a Statement of Overriding Consideration. PRC [§21100](#)/CCR [§15120](#)



KEY CEQA PROCESSING TIMELINES

Most permit processing timelines are driven by statute. The section below highlights the most common deadlines, but for more information on the entire process flows for discretionary permits, refer to the Community Development Department's [Permit & Service Delivery Guide](#).

STARTS WITH A COMPLETE APPLICATION

The Permit Streamlining Act (CCR [§65920](#) et seq) was enacted in 1977 in order to expedite the processing of permits for development projects by imposing time limits within which local agencies must either approve or disapprove permits. Once an application is submitted, the city has 30 days to inform the applicant whether the application is complete (CCR [§15060\(a\), 15101](#)).

If incomplete, the applicant addresses the deficiencies and then resubmits the application, which starts a new 30-day review period. If the agency fails to inform the applicant within the 30-day period, the application is "deemed complete" (CCR [§65943](#)) and the city is limited in requesting any new information from the applicant.

Environmental processing commences after a development application is determined to be complete for processing and the permit applicant provides the necessary reports, studies, and documents required for environmental review.

EXEMPTIONS

For projects that are eligible for a statutory, categorical, or common-sense exemption.

- The project must be presented for decision within 60 days from date application is deemed complete.
- The Notice of Exemption (NOE) must be publicly posted for five business days and appealed within ten calendar days of the City Planner's decision.

- The decision-making authority for the discretionary permit/action does **NOT** approve the use of the exemption as part of their decision on the discretionary permit and/or action; that responsibility resides solely with the City Planner.
- The exemption determination and relevant findings shall be made part of the recitals within the approving resolution/ordinance that is prepared for discretionary permit/action.
- The NOE is filed with the County Clerk within five days following approval of the project. A timely filed NOE establishes a 35-day statute of limitations for challenging project approvals that are deemed exempt, starting from the date the project was approved. NOEs not timely filed extends the legal filing period to 180 days.
- A determination that a project is “not a project” under CEQA is not a formal exemption and City Planner’s notice of determination and NOE are not required.

NEGATIVE DECLARATIONS/MITIGATED ND

For projects that require a negative declaration (ND) or mitigated negative declarations (MND).

- The ND or MND must be completed and presented for decision within 180 days from the date when the city finds the application complete. Timelines may be longer depending on the timeliness of submittals and resubmittals (§15109).
- Notice of Intent to Adopt must be posted for 20/30 days. Review and consultation period must be at least 20 days. Review period extended when ND/MND sent to state clearinghouse.
- Unlike exemptions, the decision-making authority for the discretionary permit/action considers and approves the ND or MND as part of their decision on the discretionary permit and/or action.



- The environmental determination, relevant findings, and required mitigation/monitoring shall be incorporated into a separate approving resolution and/or ordinance.
- In the staff report, the resolution on the environmental determination shall be listed first, followed by the resolution and/or ordinance approving the project. The decision-maker can approve both actions simultaneously.
- The Notice of Determination (NOD) must be filed with the County Clerk within five days following approval of the project. A timely filed NOD establishes a 35-day statute of limitations for challenging project approvals that are deemed exempt, starting from the date the project was approved. NOEs not timely filed extends the legal filing period to 180 days.

ENVIRONMENTAL IMPACT REPORT

Projects requiring an Environmental Impact Report (EIR).

- An EIR must be completed and certified within 365 days of application completeness. Timelines may be longer depending on the timeliness of submittals and resubmittals (CEQA Guidelines 15109)
- Prepare/complete the Initial Study, determine EIR required, and release a Notice of Preparation (NOP). The NOP must be issued within 30 days of determination and specify project.
- Notice of Completion to be filed with state clearinghouse.
- Public review: Notices sent to affected agencies, surrounding property owners, and requesting individuals.

- Review and consultation period must be at least 30 days, 45 days when submitted to state clearinghouse.
- Final EIR. Certification prior to project approval and within one year from complete application
- Findings and Statement of Overriding Consideration needed for approvals with remaining unmitigated significant effects.
- EIR Notice of Determination to be filed within five days of project approval.
- Statute of Limitations to challenge an EIR is 30 days.

Notwithstanding, city procedures provide that the time limit to complete and approve, adopt, or certify the environmental document may be extended once for not more than 90 days upon consent of the applicant.



PUBLIC ENGAGEMENT

As previously noted, CEQA’s basic purpose has been to foster transparency and integrity in public decision-making so that consideration is given to minimizing damage public decisions may have on the environment before the action is approved or carried out. As such, there are opportunities for the public to comment.

PUBLIC NOTICING

Public involvement starts when an application is filed with the city and residents within 600 feet of the project are notified. Any public comments following that initial notification are used to help determine what environmental impacts will be studied and what type of environmental document will be needed. For NDs, MNDs, and EIRs, there is a formal comment period after the initial environmental document is circulated, where the public is given an opportunity to review and comment on the city’s environmental findings and determinations.

PUBLIC HEARINGS

There are hearings, sometimes during and always after the public comment period. Public hearing notice requirements are covered by Government Code sections [§65090](#) and [§65091](#). The possible approval, adoption, or certification of the environmental assessment for NDs, MNDs, and EIRs will be announced as part of the public hearing notice provided for the discretionary action(s) required for project approval. The public is invited to be a part of this decision-making process.

DECISION-MAKING BODY DELIBERATIONS



[CEQA exempt projects excluded]

Before making its decision whether to carry out the proposed project, the decision-making body (i.e., Planning Commission or City Council) needs to independently review and consider all relevant documents, reports, studies, or other materials that comprise the full environmental assessment of the project. The decision-makers must also review and consider all written and oral evidence submitted to the city in connection with the environmental assessment and the proposed project itself. The decision-making body should not approve a project as proposed if there are feasible alternatives/mitigation measures available which would substantially lessen the environmental effects or unless [specific economic, social, or other conditions make the project alternatives or mitigation measures infeasible, and specific findings of overriding considerations have been made per CEQA.

APPROVING PROJECTS WITH IMPACTS

Although the State Legislature established policies concerning the maintenance of a quality environment and control of environmental pollution, the city also has obligations to balance public objectives, including economic and social factors, in determining whether and how a project should be approved, conditionally approved, or denied. In that regard, the decision-making body may balance environmental objectives with economic/social objectives in arriving at a final decision by weighing any adverse environmental effects against any positive effects/benefits to the public which could result from the proposed project.

YOUR OPTIONS FOR SERVICE

Please contact the Planning Division at 442-339-2600 or via email at Planning@carlsbadca.gov for more information about environmental review and processing.

