



CITY OF NATIONAL CITY ENVIRONMENTAL GUIDELINES

Local Guidelines for the Implementation of the
California Environmental Quality Act (CEQA)

Revised: November, 2005

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I. INTRODUCTION

A. Authority

The following procedures are adopted by the City Council of the City of National City pursuant to Section 21082 of the *California Public Resources Code* and Section 15022 of Title 14 of the *California Administrative Code*, Guidelines for Implementation of the California Environmental Quality Act of 1970.

B. Purpose of Guidelines

This document implements the purpose and provisions of the California Environmental Quality Act (CEQA) for the City of National City. The City Guidelines are intended to supplement the State Guidelines which are hereby incorporated by reference. If the City Guidelines ever conflict with the State Guidelines, the provisions of the State document shall take precedence.

II. DEFINITIONS

A. CEQA

“CEQA” (the California Environmental Quality Act) means California Public Resources Code Sections 21000, et seq.

B. Decision-Making Body

The person or group of people within the City (e.g. Planning Director, Planning Commission, City Council) that has authority to approve or disapprove project applications.

C. Environmental Assessment Form

The application form, completed by the applicant and subsequently reviewed by staff, for all permit applications and project proposal determined to be subject to the provisions of CEQA. The information provided is used in preparing an Initial Study.

D. EIR (Environmental Impact Report)

“EIR” means a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to avoid or mitigate the effects.

E. Initial Study

The written analysis of potential environmental impacts of a project, prepared by staff, to determine if a project may have a significant effect on the environment and to determine whether or not a Negative Declaration or Environmental Impact Report is required. The analysis is based on information obtained in the environmental assessment form and any supplemental information proposed including specific technical environmental studies, such as traffic, soils and geology, biology, or noise impact analyses.

F. Initial Study Checklist

A checklist completed by staff, based on an Environmental Assessment Form completed by an applicant, to determine whether the project may have a significant effect on the environment.

G. Lead Agency

Where used in these procedures, "City of National City" is the same as "Lead Agency". The lead agency has the responsibility of preparing the EIR or Negative Declaration for the project and may also be responsible for carrying out or approving a project.

H. Negative Declaration

A written statement by the City briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment, and therefore does not require the preparation of an EIR. "Negative Declaration", when used elsewhere in this document, also includes a "Mitigated Negative Declaration." A "Mitigated Negative Declaration" is a written statement by the City briefly describing the reasons that a proposed project which includes revisions to the project to mitigate or avoid potentially significant environmental effects, will not have a significant effect on the environment.

I. Notice of Determination

A notice filed by the Planning Department when the City approves or determines to carry out a project that is subject to the requirements of CEQA.

J. Notice of Exemption

A notice that may be filed by the Planning Department after the City has approved or decided to carry out a project, and has determined the project to be exempt from CEQA. This notice may also be filed by an applicant.

K. Notice of Preparation

A notice sent by the Planning Department to notify the Responsible and Trustee agencies that the City plans to prepare an EIR for a project. The purpose of this notice is to solicit guidance from such agencies as to the scope and content of the environmental information to be included in the EIR.

L. Office of Planning and Research (OPR)

Governor's Office of Planning and Research assists the Governor and State administration in land-use planning and research.

M. Responsible Agency

A public agency, other than the lead agency, which has approval authority for a project or portion of a project.

N. Significant Environmental Impact/Effect

A substantial, or potentially substantial, adverse change in the physical conditions within the area affected by the project.

O. Staff

Persons designated by the Planning Director to perform environmental review and prepare environmental documents and, when so authorized by these guidelines, empowered to administer CEQA on behalf of the City of National City.

P. State Clearinghouse

Located with the Office of Planning and Research, the "State Clearinghouse" coordinates the state level review of environmental documents.

Q. Technical Environmental Studies

Professionally prepared studies focused on specific environmental issues (e.g. biological resources, noise, traffic, etc.) submitted in support of an Environmental Assessment Form.

III. GENERAL RESPONSIBILITIES

A. Planning Department Staff

1. Responsibilities - The City Council of the City of National City designates the Planning Department staff as the City's reviewing staff for public and private projects, except those under the jurisdiction of the City's Community Development Commission. The duties of the staff are as follows:
 - a. assess the potential environmental significance of projects proposed to be undertaken by the City of National City that are subject to the requirements of CEQA and these procedures;
 - b. prepare environmental documents and recommendations to the Planning Commission for projects subject to CEQA and these procedures;
 - c. review environmental documents submitted by other cities or agencies to the City of National City for comment;
 - d. notify the public of the availability for review of environmental documents;
 - e. transmit a Notice of Preparation to all responsible agencies when an EIR is required for a project, and to affected property owners;
 - f. transmit a Notice of Completion to the OPR when a draft EIR is accepted for public review;
 - g. transmit requests for publication of public notice regarding Proposed Negative Declarations and availability of draft EIR's, and mail public notice of proposed Negative Declarations and of availability of draft EIR's to affected property owners;

- h. transmit a Notice of Determination to the County Clerk, and to the OPR, when required;
- i. recommend to the Planning Commission and decision-makers the certification of EIR's and adoption of environmental findings;
- j. recommend concurrence or non-concurrence with the environmental documents of other agencies;
- k. maintain a non-exhaustive list of consultants, including their curriculum vitas, experienced in preparing environmental documents consistent with CEQA.

B. Planning Commission

- 1. Responsibilities - The National City Council designates the National City Planning Commission to perform the following duties:
 - a. to adopt Negative Declarations when acting in a decision-making capacity and to recommend adoption of Negative Declarations by the City Council when acting in an advisory capacity;
 - b. to require an EIR when after consideration of public testimony or other information, a finding to adopt a Negative Declaration cannot be made;
 - c. to hold a public hearing on every Final EIR completed, for private projects; except for those under the jurisdiction of the City's Community Development Commission;
 - d. to complete the Final EIR and certify that it has been completed in compliance with CEQA and these guidelines;
 - e. To recommend adoption of environmental findings to the City Council when the Council acts as the decision-making body on a project;
 - f. To consider and determine whether an EIR is required for a project when an applicant appeals staff's decision.

C. City Council

- a. to adopt Negative Declarations;
- b. to require an EIR when, after consideration of public testimony or other information, a finding to adopt a Negative Declaration cannot be made;
- c. to adopt Negative Declarations or certify a Final EIR when acting in a decision-making capacity on public projects;
- d. to hold a public hearing on every EIR, when the Planning Commission is not the final decision-making body, and excepting those that are under the jurisdiction of the Community Development Commission;
- e. to complete the Final EIR and certify that it has been completed in compliance with CEQA and these guidelines;
- f. to consider Negative Declarations and EIR's on appeal, consistent with the provisions in this section, when the Planning Commission is the final decision-making body.

IV. PROJECT REVIEW

A. Project Application Submittal and Preliminary Review

1. Staff completes preliminary environmental review to determine whether or not the proposed project is subject to CEQA and whether an Initial Study is required.

A project may be determined to be exempt from CEQA prior to application submittal, if any of the below apply to the project:

- It can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (Section 15061(b)(3) of Title 14 of the California Administrative Code);
- The activity qualifies as being in a class of activities that have been granted exemptions by the Legislature (Sections 15260-15285 of Title 14 of the California Administrative Code);
- The activity is determined to be in one of a number of classes that the Secretary for Resources has found to not have a significant effect on the environment (Sections

15300-15333 of Title 14 of the California Administrative Code).

If it is determined that the project is exempt, an Initial Study application is not needed. A Notice of Exemption may be completed by staff and placed in the project file. The Notice of Exemption may be filed with the County Clerk, once the project has been approved. A copy of the Notice of Exemption that is filed with, and signed by, the County Clerk shall be maintained as a part of the project file.

2. Upon receiving a project application and environmental assessment form from an applicant, an Initial Study file is prepared and forwarded to the assigned planner along with the project case file. The planner should coordinate their review to determine if adequate information has been submitted.
3. Supplemental information may be required to determine whether a Negative Declaration or an EIR is needed for the project. The Planning Department shall notify the applicant, in writing, of any additional information needed. If required information is not submitted within six months, the application shall be considered withdrawn.
4. Staff may determine that an EIR will be required for a project, based on preliminary review, without completing an Initial Study. In the absence of a completed Initial Study, staff shall identify the significant effects on which the EIR shall focus, identify the effects determined not to be significant and explain reasons for determining that other effects would not be significant.
5. A project applicant may request that staff determine that an EIR is required and waive the Initial Study requirement.

B. Fees

1. At the time of any discretionary permit application filing, a fee adopted by the City Council, will be collected by the City Treasurer for the processing of an environmental assessment application.
2. There is no fee for projects exempt from the provisions of CEQA. If an environmental assessment fee has been collected for a project which is found to be exempt, the Planning Department shall issue a

request for a warrant to the Finance Department so the applicant may receive a full refund.

3. If it is determined that an EIR is required, the fee adopted by the City Council for staff processing of the EIR shall be collected by the City Treasurer, as explained in Section VI.A.3 below.

C. Initial Study

1. Application submittal requirements for environmental review shall include a completed Environmental Assessment Form.
2. Staff shall review the Environmental Assessment Form and all available information relevant to the project and conduct a field inspection of the site. Staff shall also consult affected agencies during the preparation of the Initial Study.
3. Preparation of Initial Study

The Planning Department shall prepare the Initial Study based on information submitted in the Environmental Assessment Form and any technical environmental studies. The Initial Study will reach one of the following conclusions:

- a. Exemption; or
 - b. a Negative Declaration is proposed, because
 - (1) there is no substantial evidence that the project may have a significant effect on the environment; or
 - (2) the project may result in a significant environmental impact but revisions in the plans by the applicant mitigate or avoid the effects where clearly no significant effects would occur; or
 - c. an EIR is required, since the project may result in a significant environmental impact.
4. The completed Initial Study is signed by staff and forwarded to the planner assigned to review and process the project application.
 5. In cases where the Initial Study identified potentially significant effects, revisions to the project plans or proposals may be made by or agreed to by the applicant to avoid the significant effects. The

revisions or agreement shall be secured by authorized signature and shall be enforceable regardless of change of ownership of the affected property.

V. **NEGATIVE DECLARATIONS**

A. Contents

1. The following information shall be incorporated into a proposed Negative Declaration:
 - a. project title (reference case file numbers)
 - b. address of project (with location shown on a map, preferably)
 - c. applicant's name
 - d. brief description of the project
 - e. statement that the project will not have a significant effect on the environment
 - f. copy of Initial Study documenting reasons to support proposed finding that no significant impacts were identified
 - g. name of person who prepared the Initial Study
 - h. a list of mitigation measures (if applicable).

B. Public Notice

1. The proposed Negative Declaration is advertised in a newspaper of general circulation in the area to inform the public or the 20-day public review period, or 30-day public review period if the Negative Declaration is submitted to the State Clearinghouse; however, other methods of advertisement, consistent with Section 15072(b) of Title 14 of the California Administrative Code, may be used.
2. If a Negative Declaration is proposed for a project requiring a public hearing, it is advertised as part of the public hearing notice for the project. Public hearing notices mailed to property owners shall also provide notice of the proposed Negative Declaration for Planning Commission hearing(s). If the proposed Negative Declaration is for a project not requiring a public hearing (e.g. site plan review for a Building Permit application), the 20-day public review period follows completion of the Initial Study.
3. A copy of the notice of a proposed Negative Declaration shall be sent to all affected agencies including public agencies with jurisdiction by law over resources affected by the project.

4. A copy of the notice of a proposed Negative Declaration shall be sent to the State Clearinghouse where one or more State agencies is an affected agency.
5. When a proposed Negative Declaration is submitted to the State Clearinghouse for review by State agencies, the public review period shall not be less than 30 days unless a shorter period is approved by the Clearinghouse.

C. Adoption

1. Any advisory body of the City (i.e., Planning Commission) making a recommendation to the decision-making body shall consider the proposed Negative Declaration before making its recommendation.
2. Any public comments received, along with necessary responses, are provided to the decision-making body for consideration prior to adoption of a Negative Declaration.
3. Prior to adopting a Negative Declaration, the decision-making body shall consider any comments received during the review process, and find on the basis of the Initial Study that there is not substantial evidence that the project will have a significant effect on the environment.
4. In cases where the Planning Commission approves a project and the City Council upholds their decision after considering an appeal, the Council shall consider the adopted Negative Declaration and certify that the Negative Declaration has been approved pursuant to the requirements of CEQA, and that the Initial Study and Negative Declaration adequately address the effects of the project as approved or conditionally approved. The Negative Declaration adopted by the Planning Commission is not required to be readopted by the City Council.
5. In cases where the Planning Commission denies a project and the City Council appeals the Planning Commission decision and approves a project, the City Council shall adopt a Negative Declaration.
6. If after review of the proposed Negative Declaration, consideration of the Initial Study, and consideration of comments received, the decision-making body finds that there is substantial evidence that the project may have a significant effect on the environment, the project shall not be approved, and a Negative Declaration shall not

be adopted. Preparation of an EIR or of additional environmental studies may be required in order to consider approval of the project.

7. Adoption of a Negative Declaration is not required if a project is denied.

D. Notice of Determination

1. The Planning Department shall file a Notice of Determination with the County Clerk after a project has been approved. Contents of the Notice of Determination shall be as required by Section 15075 of the State Guidelines. If the project requires discretionary approvals from a State agency, it shall also be filed with the Office of Planning and Research. Filing is not required for projects which are denied.
2. The Notice of Determination shall be filed within five (5) working days after the final decision to approve the project has been made.
3. The Notice of Determination shall be filed with Office of the County Clerk, and also to the State OPR when required.

E. Posting

1. Proposed Negative Declarations and Notices of Determination shall be posted at City Hall, the City Library, and on the City website for thirty (30) days after the filing.

VI. ENVIRONMENTAL IMPACT REPORTS

A. Draft EIR

1. Decision to prepare an EIR and Notification
 - a. If the Initial Study shows, or the Planning Department has determined, that a project may have a significant effect on the environmental, the applicant shall be notified in writing, that an EIR is required.
 - b. Notification will include information on procedures for the preparation of an EIR by the City, including time limits and required fees to be paid.

2. Appeal of decision to prepare an EIR
 - a. The applicant has the right to appeal staff's finding to the Planning Commission, in writing and must file the appeal with the Planning Department no later than 14 days after receipt of notification that an EIR is required. The appeal shall be considered at a regularly scheduled Planning Commission meeting within 30 days after receipt of the appeal. The decision of the Planning Commission is final.
3. Submittal of filing fees
 - a. Before the Planning Department will begin the EIR process, the applicant must submit the required filing fee for staff processing to the City Treasurer.
 - b. The filing fee for staff processing of the EIR must be received within thirty (30) days of receipt of notification that an EIR is required. Failure to pay the fee within this time period will result in the application being deemed withdrawn unless the applicant requests in writing for an extension not to exceed an additional 30 days. The written request must be received within the first 30 day time period after notification.
4. Notice of Preparation
 - a. A Notice of Preparation shall be prepared by the Planning Department upon determination that an EIR shall be prepared for the project. It shall be transmitted to the State Clearinghouse and each Responsible and Trustee agency. The Notice of Preparation shall provide the responsible agencies with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the Notice of Preparation shall include the information required by Section 15082(a)(1) of Title 14 of the California Administrative Code.
 - b. Response to Notice of Preparation (Section 15082(b) of Title 14 of the California Administrative Code): Within 30 days after receiving the Notice of Preparation each trustee agency, responsible agency, and the State Clearinghouse shall provide the City specific detail about the scope and content of the environmental information related to the

responsible agency's area of statutory responsibility that must be include in the EIR. If no response is provided within 30 days of receipt of the Notice of Preparation, the City may presume the recipients have no response to make. Also, to expedite the consultation the lead agency, a trustee agency, a responsible agency or a the project applicant may request a meeting to assist the lead agency in determining the scope and content of the environmental information a trustee or responsible agency may require (Section 15082(c) of Title 14 of the California Administrative Code).

- c. The public notices provisions contained in Section 21092 of the Public Resources Code are contained in Section VI(A)(8) "Public Review of Draft EIR" in these Guidelines.

5. Preparation of Draft EIR

- a. The project applicant shall select a consultant experienced in conducting environmental review and preparing EIRs consistent with CEQA. If the project is a City project, the City, in its discretion, may prepare the EIR in-house or hire a consultant to prepare the EIR.

6. Review and acceptance of Draft EIR

- a. The Planning Department shall review the Draft EIR and subject it to its own analysis. The consultant, and/or the applicant, shall submit information or comments to the City, when requested, to assist in the preparation of the Draft EIR; and, the consultant shall make changes to the Draft EIR when required by the Planning Department.
- b. A Draft EIR shall not be accepted by the City until the 30 day review period (or longer if requested) for the Notice of Preparation has ended. The Draft EIR shall address the areas identified by the responsible/trustee agencies in response to the Notice of Preparation.
- c. Planning Department staff will inform the consultant of the number of copies of the Draft EIR to be submitted to the Planning Department. The number will depend upon the distribution required for review of the document.

7. Notice of Completion
 - a. As soon as the Draft EIR is complete, the Planning Department files a Notice of Completion with the Office of Planning and Research.
 - b. The Notice of Completion shall include a brief description of the project, its proposed location, an address where copies of the Draft EIR are available, and the period during which comments will be received on the Draft EIR.

8. Public review of Draft EIR
 - a. At the same time that the Notice of Completion is filed, the Planning Department will provide public notice of the availability of the draft EIR for public review consistent with Section 15087(b) of Title 14 of the California Administrative Code and Section 21092 of the Public Resources Code. For projects that require public hearings, the public notice shall also be sent both to property owners within 300 feet of the project site and to those persons who requested notification.
 - b. The minimum public review period for submittal of written comments is 30 days. If state agency review via the State Clearinghouse occurs, then the minimum public review period is 45 days.
 - c. The notice shall contain the enumerated requirements contained in Section 15087(c) of Title 14 of the California Administrative Code.

9. Time limitation

The time period from the date on which the application requesting approval of the project is determined complete to the completion and certification of an EIR shall not be more than one (1) year.

B. Final EIR

1. Preparation

- a. At the conclusion of the public review period for the Draft EIR, the Final EIR shall be prepared by the consultant who

prepared the Draft EIR under the direction of the Planning Department.

2. Content

- a. The Final EIR shall consist of:
 - (1) The Draft EIR
 - (2) Comments and recommendations received on the Draft EIR either verbatim or in summary
 - (3) A list of persons, organizations and public agencies commenting on the Draft EIR
 - (4) Any other information added, as deemed necessary by the Planning Department
 - (5) The responses to significant environmental points raised in the review and consultation process.

3. Certification

- a. A public hearing will be held by the Planning Commission at the time scheduled by staff. The Planning Commission will review the Final EIR along with written communications on file and any additional comments from the public. The hearing for certification of the Final EIR may be combined with hearings on the project.
- b. Prior to approving a project, the Planning Commission will take one of the following actions:
 - 1. Certify the Final EIR has been completed in compliance with CEQA, State Guidelines for Environmental Review and these Guidelines; and
 - 2. Certify that the Final EIR was presented to the decision-making body of the lead agency and that they reviewed and considered the information contained in the final EIR prior to approving the project; and
 - 3. Certify that the Final EIR reflects the lead agency's independent judgment and analysis; and

4. Make a finding of whether or not the proposed project will have a significant effect on the environment; or
 5. Refer the EIR back to the Planning Department if it is determined that further study and revision of the EIR is needed.
- c. If Planning Commission is the final decision-making body on the project, both the Commission's action on the project and Final EIR certification may be appealed to the City Council as noted below:
- For Tentative Parcel Maps the subdivider or any interested person may file a written appeal in the Office of the City Clerk within 10 days after the Planning Commission decision.
 - For Conditional Use Permits, Zone Variances, Planned Development Permits and Planned Unit Development Permits the applicant or any interested person may file a written appeal in the Office of the City Clerk prior to 5:00 p.m. on the day the Planning Commission's resolution on the project is set to come before City Council.

4. Finding

- a. The decision-making body shall not approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects unless one or more of the following findings for each of those significant effects is made. A brief explanation for each finding supported by substantial evidence is also needed.
- (1) Changes or alterations have been required in or incorporated into the project which avoid or substantially lessen the significant environmental effect(s) identified in the Final EIR.
 - (2) Changes or alterations are within the responsibility and jurisdiction of another public agency and not the City, and have been or can and should be adopted by the other agency. (This finding shall not be made if the City has concurrent jurisdiction with

another agency to deal with identified issues feasible mitigation measures or alternatives.)

- (3) Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR, and, the project would result in a significant effect on the environment which is unavoidable and acceptable due to overriding concerns (i.e. statement of overriding consideration).

5. Resolution

The EIR shall be certified and necessary environmental findings shall be adopted by resolution of the Planning Commission. If the decision-making body is the City Council, the Council shall indicate that it has reviewed the Final EIR and shall adopt findings, as required by sections 3 and 4 above, by resolution.

6. Notice of Determination

- a. Within five (5) working days of approval of the proposed project, the Planning Department shall transmit a Notice of Determination to the County Clerk. Contents of the Notice of Determination shall be as required by Section 15094 of the State Guidelines.
- b. If a project requires discretionary approval from any state agency, the Notice of Determination shall also be filed with the OPR.

7. Mitigation, Monitoring and Reporting Program

When the City has made findings required under section VI(B)(a)(4)(1) of these guidelines, the City shall adopt a program for monitoring or reporting on the alterations it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.

C. Disposition of a Final EIR

1. Upon certification of the Final EIR, the Planning Department shall:
 - a. include the Final EIR as part of the staff report for project review;
 - b. file a copy of the Final EIR with the appropriate responsible and trustee agencies;
 - c. retain, in the City Clerk's File, one copy of the Final EIR as a public record for a reasonable period of time;
 - d. require the applicant to provide a copy of the certified, Final EIR to each responsible agency.

VII. USE OF A PREVIOUSLY ADOPTED NEGATIVE DECLARATION OR A PREVIOUSLY CERTIFIED EIR, AND OTHER TYPES OF EIRS

A. Subsequent EIR or Negative Declaration

A subsequent EIR or Negative Declaration will be necessary for a project, when there are substantial changes to the project or the circumstances under which it will be undertaken, or if there is new information of substantial importance that was not previously known, and major revisions of the previous EIR or Negative Declaration are necessary (Section 15162 of Title 14 of the California Administrative Code).

B. Supplemental EIR

A supplemental EIR may be prepared if any of the conditions requiring a subsequent EIR have occurred, and if only minor changes to the EIR are needed (Section 15163 of Title 14 of the California Administrative Code).

C. Addendum to an EIR or Negative Declaration

The City may prepare an addendum to a previously certified EIR or adopted Negative Declaration if some minor technical changes or additions are necessary but none of the conditions requiring a subsequent EIR or Negative Declaration have occurred (Section 15164 of Title 14 of the California Administrative Code).