

**GUIDELINES FOR THE IMPLEMENTATION OF
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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PART 38
GUIDELINES FOR THE IMPLEMENTATION OF
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

38.01 - Authority

These procedures are adopted pursuant to the California Environmental Quality Act of 1970, specifically Division 13, Public Resources Code Section 21000 et seq., hereinafter referred to as "CEQA." They are consistent with, and intended to supplement the Guidelines for Implementation of CEQA, as amended in October 1998, by the Secretary of the Resources Agency (Division 6, Title 14, California Administrative Code Section 15000 *et seq.*) hereinafter referred to as the "Guidelines." Any subject matter not addressed by these procedures shall be governed by the Guidelines, which are hereby incorporated by reference. In the event of any conflict between these guidelines and CEQA and the Guidelines, CEQA and the Guidelines shall prevail.

38.02 - Purpose

The purpose of these guidelines is to provide objectives, criteria, and procedures for the environmental evaluation of projects and the preparation and processing of environmental impact reports and negative declarations pursuant to the provisions CEQA.

38.03 - Applicability

These guidelines shall apply to and be binding upon all departments, agencies, and offices of Sierra County in the implementation of CEQA.

38.04 – Responsibilities

38.04.001 - Board of Supervisors

The Board of Supervisors shall review, consider, and when merited certify Negative Declarations and EIRs as adequate. In cases where the Planning Commission is the decision-making body and has the authority for the final approval of a Negative Declaration or acts on a decision made by the Planning Director on appeal, the Board shall serve as the appeals body for such Planning Commission actions.

38.04.002 - County Clerk

The County Clerk shall be responsible for mailing and posting of public notices used as a part of the CEQA decision-making process and for processing appeals for environmental determinations acted on by the Board of Supervisors.

38.04.003 - Planning Director

The Planning Director or his designee shall be responsible for:

- (a) Determining whether projects are exempt.
- (b) Conducting Initial Studies.
- (c) Deciding whether to prepare an EIR or a Negative Declaration.
- (d) Mailing and posting public notices for Planning Commission meetings.

- (e) Preparing Negative Declarations.
- (f) Preparing responses to comments on environmental documents.
- (g) Reviewing environmental documents from other agencies.
- (h) Certifying Negative Declarations for projects requiring administrative approval.
- (i) Preparing Notices of Determination for Negative Declarations and EIRs.
- (j) Preparing Notices of Preparation and Completion.

38.04.004 - Planning Commission

The Planning Commission shall be responsible to serve as:

- (a) An advisory body to the Board of Supervisors, reviewing, considering and preparing recommendations as to the adequacy of EIRs and Negative Declarations, requiring final Board approval.
- (b) A decision-making body, reviewing, considering, and certifying the adequacy of Negative Declarations where the Planning Commission has the authority for final approval. Such Planning Commission actions are subject to appeal before the Board of Supervisors. (See Section 38.10.)
- (c) In cases where the Planning Director is the decision-making body and has the authority to certify Negative Declarations for projects requiring administrative approval or to approve other environmental documents, the Planning Commission shall serve as the appeals body. Further appeal of a Planning Commission action is heard before the Board of Supervisors.

38.05 - Procedures for Exempt Projects

38.05.001- Review for Exemption

The Planning Director or his designee shall evaluate each project or activity to determine if it is exempt from the requirements of CEQA. This evaluation shall be done in conjunction with the normal review of project applications for completeness. Types of activities which are exempt from CEQA include:

- (a) Projects defined as ministerial in Subsection 38.05.002 and Guidelines Section 15369, or categorically exempt in accordance with Guidelines Sections 15300-15331.
- (b) Projects or activities where there is no possibility that the activity or project in question may have a significant effect on the environment.

38.05.002 - Ministerial Projects

The Planning Director or his designee shall determine whether a project is ministerial as defined in this Section and Guidelines Section 15369. After finding that a project is ministerial, the Planning Director or his designee may complete a Notice of Exemption (Guidelines Section 15062). The following County actions are considered ministerial in nature:

- (a) The issuance of building and construction related permits.

- (b) The issuance of business licenses.
- (c) The approval of final subdivision maps.
- (d) The approval of individual utility service connections and disconnections.
- (e) The issuance of sign permits.
- (f) The issuance of occupancy permits
- (g) Checking of landscape plans.

38.05.003 - Categorical Exemptions

The Planning Director or his designee shall determine whether a project is categorically exempt. Classes of exempt activities are listed in Guidelines Sections 15300-15331. After finding a project categorically exempt, the Planning Director or his designee may complete a Notice of Exemption (Guidelines Section 15062). Examples of typical County projects which are categorically exempt and their exemption class in accordance with the Guidelines are as follows:

- (a) Lot line Adjustments, Variances, and Encroachment Permits on land with a slope of less than 20% which do not result in changes in land use and density. (Class 5)
- (b) Minor alterations in the condition of the land, such as grading, gardening, and landscaping that do not affect sensitive resources. (Class 4)
- (c) New construction/conversion of small structures or replacement/reconstruction of existing structures. (Classes 2 & 3)
- (d) Conditional Use Permits involving the operation, repair, maintenance or minor alteration of existing facilities. (Class 1)
- (e) Emergencies. As defined by Public Resources Code Section 21080 and Guidelines Section 15269.

38.05.004 – Findings

For projects categorically exempt from CEQA, the decision-making body shall make the finding, as part of the resolution or other action approving the project, that the project is categorically exempt from CEQA and therefore no environmental documents are required.

38.06 - Procedures for Non-Exempt Projects

38.06.001 - Project Application

A project applicant shall submit a completed project application and a environmental questionnaire on approved forms provided by the Planning department.

38.06.002 - Preliminary Determination

Upon receipt of an application by the lead County agency for approval of a project or a proposal for a public project, a copy of the application or proposal and the environmental questionnaire shall be forwarded to the Planning Director. The Planning Director shall make a preliminary determination and report the same to the lead County agency.

38.06.003 - Preparation of the Initial Study

Unless the Planning Director determines that the project is not subject to CEQA or is exempt, he shall conduct or cause to be conducted an Initial Study to determine whether the project may have a significant effect on the environment. Appendix G of the Guidelines shall serve as a guide for preparation of the Initial Study. All phases of project planning, implementation, and operation must be considered in the Initial Study of the project. Upon completion of an Initial Study, the Planning Director shall determine in writing whether a Negative Declaration or an EIR shall be prepared. Such determination and a copy of the Initial Study shall be furnished to the applicant within the time limits required by the Permit Streamlining Act and Guidelines Sections 15102, 15107, 15108. An Initial Study need not be prepared if the Planning Director determines that it is evident that an EIR must be prepared.

38.06.004 - Submission of Data

The Planning Director may require the project applicant to furnish such data and information as the Planning Director determines to be necessary to make a preliminary determination as to whether the project may have a significant effect on the environment and/or to assist in the preparation of an EIR. The Planning Director may require the applicant to submit any additional data, including economic and social data, which the Planning Director determines to be relevant.

38.06.005 – Mitigation

Upon a determination that an EIR shall be prepared, the applicant may submit proposed changes in the project to mitigate potential adverse effects disclosed by the Initial Study or other information.

38.06.006 - Negative Declaration

The Planning Director shall prepare a Negative Declaration if he determines that:

- (a) there is no substantial evidence that a project may have a significant environmental effect; or
- (b) revisions in a project plan or proposal made by or agreed to by the applicant would avoid the effects or mitigate the effects to a point where no significant effects would accrue.

38.06.007 - Mitigation Monitoring Plan

A Mitigation Monitoring Plan shall be adopted when required by CEQA.

38.06.008 - Public Notice and Review - Negative Declaration

If the Planning Director determines to prepare a Negative Declaration, public notice and review of the Negative Declaration shall not be less than 20 days. Public notice and review shall not be less than 30 days if State Clearinghouse review is required. (Guidelines Sections 15072 and 15073)

38.06.009 - Negative Declaration - Completion

Upon completion of a proposed Negative Declaration and after notice and public review as required herein, the proposed Negative Declaration may be transmitted to the Planning Commission for a public hearing. The Planning Director shall give notice of the hearing as required in Section 20.11. If the project requires administrative approval, then the Planning Director will serve as the decision-making body and certify said Negative Declaration.

38.06.010 - Negative Declaration - Planning Commission Action

- (a) **Decision-Making Body.** Where the Planning Commission is the decision-making body and has the authority for final approval, the Commission shall review, consider, and certify the adequacy of a proposed Negative Declaration. In such cases, the Commission shall approve and certify or disapprove the proposed Negative Declaration before taking action on the project. Such Planning Commission actions are subject to appeal before the Board of Supervisors. (See Section 38.10.)
- (b) **Advisory Body to the Board.** Where the Planning Commission is an advisory body to the Board of Supervisors and does not have the authority for final approval, it shall review, consider and prepare recommendations as to the adequacy of a proposed Negative Declaration, in draft or final form. The Planning Commission shall report its recommendation in writing to the Board of Supervisors.

38.06.011 - Negative Declaration - Board of Supervisors Action

Where a proposed Negative Declaration is forwarded to the Board of Supervisors pursuant to Subsection 38.06.010(b), the Board may conduct a public hearing with the same public notice and in the same manner as provided for the Planning Commission hearing. Said public hearing is limited to new information not previously contained in the proposed Negative Declaration reviewed by the Planning Commission. After the Board of Supervisors completes the public hearing, it may accept, modify or disapprove the recommendation of the Planning Commission. The Board shall approve and certify or disapprove the Negative Declaration before taking action on the project. If it disapproves the Negative Declaration, it shall continue consideration of the project and require that additional information be provided, or require an EIR to be prepared.

38.06.012 - Notice of Determination

After the Planning Director, Planning Commission or Board of Supervisors has made a final decision to carry out or approve a project for which a Negative Declaration has been certified, a Notice of Determination shall be filed in accordance with Guidelines Section 15075 by the Planning Director. The Notice of Determination shall be filed with the County Clerk no later than 5 days following approval of the project. Said Notice shall be posted in the County Clerk's Office for 30 days.

38.07 - EIR Process

38.07.001 - Decision to Prepare an EIR

As soon as the Planning Director or his designee has determined, based on the Initial Study findings that an EIR is required, he shall notify the applicant in writing.

38.07.002 - Notice of Preparation - Draft EIR

After determining that an EIR will be required for a project, the Planning Director or his designee shall complete and distribute a Notice of Preparation. Copies of the Notice of Preparation shall be sent to each responsible agency, trustee agency, and federal agency involved in approving or funding the project. Said Notice shall also be posted in the County Clerk's Office for 30 days. The Notice of Preparation shall notify said agencies that the County, as lead agency, will prepare or cause to be prepared an EIR. The Notice of Preparation shall be in substantially the same form as Appendix I, of the Guidelines. Within 30 days after receiving the Notice of Preparation, each responsible agency shall inform the Planning Department of the scope and content of the environmental information related to the responsible agency's area of responsibility.

38.07.003 - Cost of EIR Preparation

If the County prepares the EIR it shall submit to the applicant an estimate of the costs of its preparation, including administrative costs to the County, and shall collect from the applicant the amount prior to beginning preparation of the draft EIR.

38.07.004 - Early Public Consultation/Scoping

Prior to completion of the draft EIR, the Planning Director may consult directly with any person or organization he believes will be concerned with the environmental effects of the project. Any person, including the project applicant, may submit information or comments to the Planning Director to assist in the preparation of the draft EIR.

38.07.005 - Draft EIR Consultation

Upon completion or receipt of a proposed draft EIR, the Planning Director shall consult with all responsible agencies and such other persons as required by the Guidelines. After completing a draft EIR, the Planning Director shall distribute copies of the EIR for review, and consult with and request comments from public agencies having jurisdiction by law, and such persons having special expertise with respect to any environmental impact as the Planning Director may determine.

38.07.006 - Notice of Completion

A Notice of Completion of a draft EIR shall be filed with the Office of Planning and Research. Said Notice of Completion shall be noticed in the time and manner provided by Guidelines Section 15087 and Public Resources Code Section 21092 *et seq.* Said Notice shall be posted in the County Clerk's Office for 30 days. Copies of the draft EIR shall be placed in the Sierra County Public Library and in the Office of the Planning Department.

38.07.007 - Public Review - Draft EIR

The Planning Director shall provide at least thirty (30) days and not more than ninety (90) days except in unusual situations for public review of a draft EIR. (Guidelines Section 15087.) The time for review shall commence with the day following the day on which copies of the draft EIR are deposited in the mail. Notice of the applicable review period shall be affixed to the EIR. When an EIR is submitted to the State Clearinghouse, the review period shall be at least as long as that required by the State Clearinghouse for review by State agencies.

38.07.008 - State-Wide, Regional or Areawide Significance

When a project is of State-wide, regional or areawide significance according to Guidelines Section 15206, the draft EIR shall be sent to the State Clearinghouse.

38.07.009 - Planning Commission Hearing - Draft EIR

Upon completion of a draft EIR and after notice and public review as required herein, the draft EIR shall be transmitted to the Planning Commission for review and written recommendation to the Board. A public hearing may be conducted, and in such instances, the Planning Director shall give notice of the hearing as required in Section 20.11.

38.07.010 - Responses to Comments - Draft EIR

Following the completion of the public review period, the Planning Director shall respond in writing to comments on the draft EIR received during the public review period and shall include such responses in the final EIR. The response shall describe the disposition of significant environmental issues raised by the comment.

38.07.011 - Preparation - Final EIR

Following the public review period and the preparation of responses to comments, the Planning Director shall prepare the final EIR. (Guidelines Section 15132.)

38.07.012 - Review - Final EIR

The final EIR shall be distributed to responsible agencies. A notice of availability of the final EIR shall be sent to interested persons who submitted oral or written comments on the draft EIR. Copies of the proposed final EIR shall be placed in the Planning Department and other locations selected by the Planning Director.

38.07.013 - Hearing - Final EIR

The Board of Supervisors or the Planning Commission may conduct a public hearing on the final EIR pursuant to Section 20.12. Said public hearing is limited to new information not contained in the draft EIR. The Board, or Commission, as appropriate shall approve and certify or disapprove the final EIR, before taking action on the project.

38.07.014 - Findings - Final EIR

- (a) The Board of Supervisors or Commission, as appropriate shall consider the final EIR and make the following findings prior to taking any action on the project:
 - 1. certify that the final EIR has been prepared in compliance with CEQA, the Guidelines and these guidelines;
 - 2. that the EIR reflects the independent judgment of the County; and
 - 3. the project in its approved form will or will not have a significant effect on the environment.

- (b) The Board of Supervisors or Commission, as appropriate shall not approve or carry out a project for which the final EIR identifies one or more significant environmental effects unless, it makes one or more of the following findings:
 - 1. Changes or alterations have been required in or incorporated into such project, which mitigate or avoid a significant effect on the environment.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency, and such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3. Specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make the mitigation measures or project alternatives identified in the EIR infeasible to implement.

- (c) The findings and facts supporting such findings shall be stated in writing. If the decision-making body determines that there are significant environmental effects identified in the EIR which are not substantially mitigated, and determines to approve or carry out the project, it shall adopt a statement of overriding considerations.

38.07.015 - [RESERVED]

38.07.016 - Statement of Overriding Consideration

In cases where the County allows the occurrence of significant effects which are identified in the final EIR, but are not mitigated, the Board or Commission, as appropriate must adopt a Statement of Overriding Consideration in accordance with Guidelines Section 15093. Such statement shall be included in the record of the project approved and shall be referenced in the Notice of Determination.

38.07.017 - Mitigation Monitoring Plan

Mitigation Monitoring Plan. A Mitigation Monitoring Plan shall be adopted when required by CEQA.

38.07.018 - Notice of Determination

After approval of a project for which a final EIR has been adopted, the Planning Director shall file a Notice of Determination with the County Clerk in accordance with Guidelines Section 15094. Said Notice shall be posted in the County Clerk's Office for 30 days. If the project requires discretionary approvals from a State agency, the Notice of Determination also shall be filed with the Office of Planning and Research.

38.07.019 - Inadequate Final EIR

If the Board of Supervisors determines that a final EIR is inadequate, then they shall return it to the Planning Director for further processing.

38.08 - Mitigation Monitoring Plan

38.08.001 - Mitigation Monitoring Plan

In accordance with Public Resources Code Section 21081.6, the County shall ensure that mitigation measures, required as a condition of approval, are monitored and tracked for compliance.

38.08.002 - Responsibility for Monitoring

The Planning Director or his designee shall monitor mitigation measures, required as a condition of approval for final EIRs and Negative Declarations, to assure compliance and timely monitoring and reporting.

38.08.003 - Applicant's Role

The applicant shall provide the necessary surveys, inventories, information and actions necessary to comply with the conditions stated in this mitigation monitoring program to comply with the provisions of AB 3180.

38.08.004 - Enforcement Procedures

- (a) Measures, including issuance of a stop-work order or business license revocation may be imposed for non-compliance with required adopted mitigation measures.
- (b) Additional fees will be imposed for any non-compliance which necessitates additional monitoring and reporting.

38.08.005 - Mitigation Monitoring Program Format

Mitigation measures and implementation measures required as a condition of approval for final EIRs and Negative Declarations shall be monitored and tracked for compliance on forms and in a program format approved by the Planning Director.

38.09 - Fees

38.09.001 - Fees Set By Resolution

The Board of Supervisors shall, by resolution, fix the type and amount of fees and the time of payment of fees necessary to allow the County to cover 100% of its costs for carrying out the provisions of these guidelines, CEQA, and the Guidelines, including the requirements for and the implementation of a mitigation monitoring program.

38.09.002 - Fees For Documents

The County may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy.

38.10 - Appeals

Any person dissatisfied with any decision of the Planning Director or any other County official, agency, board or commission rendered pursuant to CEQA, the Guidelines or these guidelines, may appeal such decision to the Board of Supervisors in accordance with Section 20.33. (Ord. 902, eff. 7/6/00)