



CITY COUNCIL AGENDA REPORT

MEETING DATE: 5/21/2024

DEPARTMENT: Community Development

SUBJECT:

CEQA GUIDELINES: UPDATED 2024 IMPLEMENTATION GUIDELINES FOR THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

RECOMMENDED ACTION(S):

Adopt a Resolution Entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, AMENDING AND ADOPTING LOCAL GUIDELINES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUB. RESOURCES CODE 21000 ET SEQ.)

EXECUTIVE SUMMARY:

The State regularly adopts new California Environmental Quality Act ("CEQA") Implementation Guidelines ("State CEQA Guidelines"). These updates are based on changes to recent legislation and case law. Under State law, local agencies are required to adopt guidelines for implementing CEQA ("Local CEQA Guidelines"). These Local CEQA Guidelines are required to be updated to maintain consistency with the State's CEQA Guidelines.

In response to the State's recent updates, the City Attorney's Office has prepared the 2024 Local CEQA Guidelines (Attachment 2). The changes proposed under the 2024 Local CEQA Guidelines serve to exempt several projects from CEQA review, thereby facilitating their implementation and development. The exemptions include: 1. Exemption for a responsible agency's provision of financial assistance for the development of affordable housing. 2. Exemption for specified affordable housing projects, and 3. Exemption for housing developments on land owned by institutions of higher education and religious institutions.

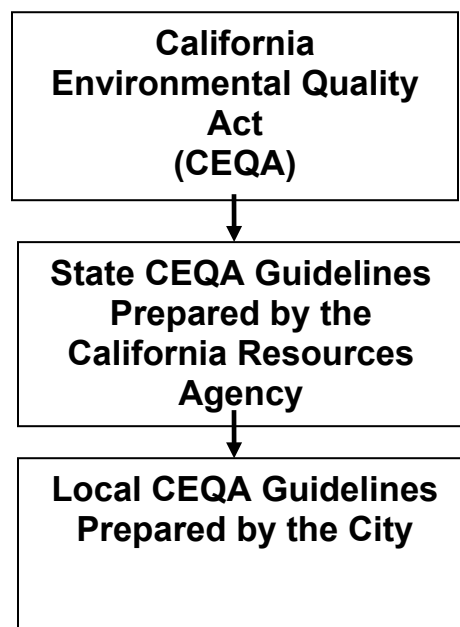
In addition, the 2024 CEQA Guidelines amends several of the existing Guidelines to: 4. Account for the expanded circumstances in which an agency must file an Notice of Determination ("NOD") or Notice of Exemption ("NOE") with the State Clearinghouse. 5. Provide public agencies with increased control over preparation of the administrative record during litigation. 6. Increase filing fees for negative declaration, mitigated negative declaration, environmental impact, and certified regulatory program.

Staff recommends the City Council adopt the attached resolution to remain in conformance with State law (Attachment 1). Attachment 2, prepared by the City Attorney's office, is the City's 2024 Local Guidelines for Implementing the California Environmental Quality Act ("CEQA").

BACKGROUND:

CEQA sets forth policies and procedures for determining, analyzing, and mitigating potential environmental impacts associated with discretionary projects. Discretionary projects are those that require a decision-maker to exercise judgment or deliberation, as opposed to ministerial projects, which only require the decision-maker to verify compliance with specific regulations.

The State Resources Agency prepares and updates State CEQA Guidelines, which serve as the official interpretation to explain and implement CEQA. State law requires the State CEQA Guidelines be certified, adopted, and amended by the State Resources Agency at least once every two years. However, the State Resources Agency commonly updates the State CEQA Guidelines annually to keep pace with recent legislation and case law. In addition, the California Code of Regulations ("CCR") Section 15022 requires local agencies to adopt Local CEQA Guidelines and procedures that serve to implement State CEQA Guidelines and function as a local stand-alone guide to the CEQA process. Therefore, the City's Local CEQA Guidelines must be consistent and within the parameters of the State CEQA Guidelines which, in turn, must be consistent with CEQA itself. This relationship between CEQA, the State CEQA Guidelines, and the Local CEQA Guidelines is illustrated by the diagram below.



In 1991, the City of Lake Forest adopted Resolution No. 91-28, which set forth the City's Local CEQA Guidelines for Implementing the California Environmental Quality Act. Over the years, the City has regularly adopted updated versions of Local CEQA Guidelines. The last update occurred in June 2023.

DISCUSSION:

The Local CEQA Guidelines are updated by the City Attorney and are intended as an internal guidance document for staff to use in the review of projects and in the preparation of environmental documents subject to CEQA. The proposed 2024 Local CEQA Guidelines (Attachment 2) are consistent with revisions to CEQA and the State CEQA Guidelines made in response to changes in legislation and case law (interpretations of the law through the legal system). Also recommended with this update is a slight increase in Department of Fish and Wildlife filing fees as indicated below under "Other Changes". The proposed 2024 Local CEQA Guidelines are included as Attachment 2.

The most notable changes are summarized below.

Notable Revisions:

The following summarizes notable changes to the Local CEQA Guidelines:

1. *Public Resources Code Section 21152; specifically, Section 3 (E), 6(Q), and 7(NN) Notices of Determination and Notices of Exemption*

Public Resources Code section 21152 has been amended to require a local agency to file an NOD with both the County Clerk and the State Clearinghouse in the Office of Planning and Research ("OPR") within five working days of the agency approving a project subject to CEQA. The Legislature further amended Section 21152 to provide that when a local agency files an NOE, the agency should file the NOE with both the County Clerk and the State Clearinghouse.

Sections 3(e), 6(q), and 7(nn) have been revised to account for the expanded circumstances in which an agency must file an NOD or NOE with the State Clearinghouse.

2. *Public Resources Code section 21080.10(b) Exemption for a Responsible Agency's Provision of Financial Assistance for the Development of Affordable Housing*

Public Resources Code section 21080.10(b) has been amended to exempt action taken by a local agency not acting as the lead agency to provide financial assistance or insurance for the development and construction of residential housing for persons and families of low-or moderate-income if the project at issue will be reviewed pursuant to CEQA by another agency.

Section 10(j) has been added to account for this exemption.

3. *Public Resources Code section 21080.40 Exemption for Specified Affordable Housing Projects*

Public Resources Code 21080.40 has been added by the Legislature. It includes a new statutory exemption under CEQA for affordable housing projects that meet the section's specified requirements. This section exempts from CEQA certain actions taken by lead agencies relating to 100% affordable housing projects (as defined), including (i) the issuance of an entitlement by a public agency for an affordable housing project, (ii) an action to lease, convey, or encumber land owned by a public agency for an affordable housing project, (iii) an action to facilitate the lease, conveyance or encumbrance of land owned or to be purchased by a public agency for an affordable housing project; (iv) rezoning, specific plan amendments, or general plan amendments required specifically and exclusively to allow the construction of an affordable housing project, or (v) an action to provide financial assistance in furtherance of implementing an affordable housing project.

Section 10(k) has been added to account for this exemption.

4. *Government Code Section 65913.16 Exemption for Housing Developments on Land Owned by Institutions of Higher Education and Religious Institutions*

Government Code Section 65913.16 provides for the ministerial approval of a "housing development project" (meeting specified requirements) located on land owned on or before January 1, 2024, by an independent institution of higher education or a religious institution.

Section 10(l) has been added to account for this exemption.

5. Public Services Code section 21167.6 has been amended to provide public agencies with increased control over preparation of the administrative record during litigation. A public agency may now deny a petitioner's request to prepare the administrative record, if it issues the denial within five business days of receiving the petitioner's request to prepare the administrative record. This section has been further amended

to clarify that an administrative record need not include: (1) communications and emails of a logistical nature, such as meeting invitations or scheduling communications; or (2) documents subject to a privilege or exemption set forth in the California Public Records Act.

Section 9(c) of the Local Guidelines has been revised to be consistent with Public Resources Code section 21167.6, as amended.

6. *Other Changes: Fee Increases*

The Department of Fish and Wildlife increased its fees effective January 1, 2024, as follows:

Filing fees for Negative Declarations or Mitigated Negative Declarations were increased from \$2,764.00 to \$2,916.75.

Filing fees for an Environmental Impact Report (EIR) were increased from \$3,839.25 to \$4,051.25.

For an environmental document pursuant to a Certified Regulatory Program, the filing fee has been increased from 1,305.25 to \$1,377.25.

The proposed update to the Local CEQA Guidelines reflects changes to the State CEQA Guidelines. Therefore, staff recommends that the City Council adopt the Resolution in Attachment 1.

FISCAL IMPACT:

There is minimal fiscal impact associated with the recommended action.

ATTACHMENTS:

1. City Council Resolution
2. 2024 Local CEQA Guidelines

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