



CITY COUNCIL AGENDA REPORT

MEETING DATE: 6/6/2023

DEPARTMENT: Community Development

SUBJECT:

UPDATED 2023 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 2023 Local CEQA Guidelines (Attachment 2). The changes proposed under the 2023 Local CEQA Guidelines serve to exempt several projects from CEQA review, thereby facilitating their implementation and development. The exemptions include:

1. Transit prioritization projects
2. Transportation plans, pedestrian plans, and bicycle transportation plans (active transportation and pedestrian plans)
3. Water system wells and domestic well projects
4. Affordable housing developments in commercial zones
5. Mixed-income housing developments along commercial corridors

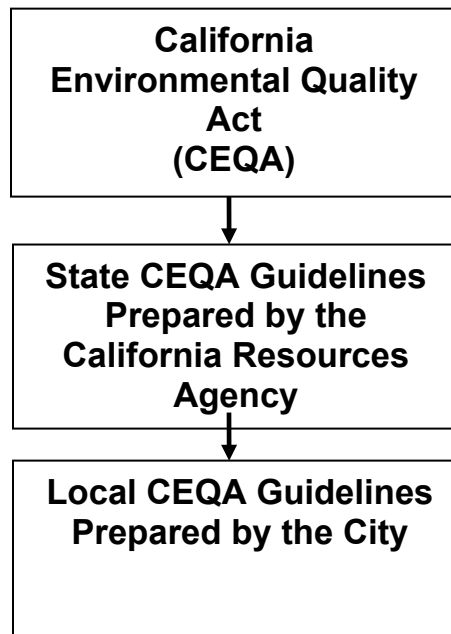
Additional updates include revisions as follows:

6. Updating references to the California Public Records Act
7. Increasing 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 2023 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 May 2022.

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 2023 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 "Notable Revisions", item 7. The proposed 2023 Local CEQA Guidelines are included as Attachment 2 in red-lined format to illustrate the changes compared to the adopted 2022 Local CEQA Guidelines.

The most notable changes are summarized below.

Notable Revisions:

The following summarizes notable changes to the Local CEQA Guidelines:

1. *Section 3.q Transit Prioritization Projects*

This section has been amended to exempt certain transit, bicycle and pedestrian projects that meet specified criteria and do not induce single-occupancy vehicle trips.

Examples of projects that are exempt include, but are not limited to:

- (1) Pedestrian and bicycle facilities.
- (2) Transit prioritization projects, such as the installation of traffic signs or new signals.
- (3) A project for the institution or increase of bus rapid transit, bus, or light rail service.
- (4) A public project to construct or maintain infrastructure of facilities to charge, refuel, or maintain zero-emission public transit buses, trains, or ferries.
- (5) A decision to reduce or eliminate minimum parking requirements or institute parking maximums.

2. *Section 3.r Transportation Plans, Pedestrian Plans, and Bicycle Transportation Plans*

This section has been amended to exempt active transportation plans and pedestrian plans from CEQA.

An active transportation plan refers to a plan developed by a local jurisdiction that promotes and encourages people to choose walking, bicycling, or rolling through the creation of safe, comfortable, connected, and accessible walking, bicycling, or rolling networks, and encourages alternatives to single-occupancy vehicle trips.

A pedestrian plan refers to a plan developed by a local jurisdiction that establishes a comprehensive, coordinated approach to improving pedestrian infrastructure and safety.

3. *Section 3.s Water System Wells and Domestic Well Projects*

This section is a new statutory exemption that applies to the construction, maintenance, repair, or replacement of wells where certain conditions are met, including:

- (1) The domestic well or water system to which the well project is connected must be designated by the State Water Resources Control

Board ("State Board") as high risk or medium risk in the State Board's drinking water needs assessment.

- (2) The well project must be designed to mitigate or prevent a circumstance where residents that rely on the well or the water system to which the well is connected would be left without an adequate supply of safe drinking water.
- (3) The well project may not be designed primarily to serve irrigation or future growth, and
- (4) A series of other conditions must be met.

4. *Section 10.h Affordable Housing Developments in Commercial Zones*

This section is a new CEQA-exempt, ministerial approval process for multi-family housing developments meeting specified criteria. The project must ensure:

- (1) That 100 percent of the project's units, excluding managers' units, be dedicated to lower income households at an affordable cost or affordable rent.
- (2) It meets the objective zoning standards, objective subdivision standards, and objective design review standards, as defined.
- (3) It is located in a zone where office, retail, or parking are a principally permitted use.
- (4) It meets certain labor standards; and
- (5) It meets a list of other conditions, specified in the Local Guidelines.

5. *Section 10.i Mixed-Income Housing Developments Along Commercial Corridors*

This section creates another CEQA-exempt, ministerial approval process for proposed multi-family housing development projects that meet certain affordability including:

- (1) That the project abut a commercial corridor and have frontage along the commercial corridor of at least fifty (50) feet.
- (2) That the project not be located on a site greater than 20 acres.
- (3) That the project be located in a zone where office, retail, or parking is a principally permitted use.
- (4) That the project meets certain labor standards.
- (5) That the project meet a list of over twenty other conditions, specified in the Local Guidelines.

6. *Various Sections Updated References to California Public Records Act*

The California Public Records Act (PRA) has been recodified and reorganized to be consistent with Assembly Bill (AB) 463. Whereas the PRA was previously codified as Government section 6250, et seq., the PRA is now codified as Government Section 7920.000, et seq. References to the PRA have been updated in the Local Guidelines consistent with AB 463. The reorganization makes no substantive changes to the PRA.

7. Other Changes Fee Increases

The Department of Fish and Wildlife increased its fees effective January 1, 2023, as follows:

Filing fees for Negative Declarations or Mitigated Negative Declarations were increased from \$2,548.00 to \$2,764.00.

Filing fees for an Environmental Impact Report (EIR) were increased from \$3,539.25 to \$3,839.25.

For an environmental document pursuant to a Certified Regulatory Program, the filing fee has been increased from \$1,203.25 to 1,305.25.

The proposed update to the Local CEQA Guidelines reflects changes to the State CEQA Guidelines. The changes to the Local CEQA Guidelines as attached in Exhibit A of Attachment 1, complete the required update in accordance with State law and case law. 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. 2023 Local CEQA Guidelines

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