



PLANNING COMMISSION STAFF REPORT

APPLICATION: City Council Resolution
No. 2018-01

AGENDA ITEM: AR-2

PREPARED BY: Teresa Santilena
Assistant Planner

MEETING DATE: December 13, 2017

SUBJECT: Adoption of Local California Environmental Quality Act (CEQA) Guidelines (City Council Resolution No. 2018-01)

REQUEST: Recommend Adoption of a Resolution of the City of Monrovia, adopting guidelines and procedures for implementing the provisions of the California Environmental Quality Act and repealing Resolution No. 93-06.

APPLICANT: City of Monrovia

ENVIRONMENTAL DETERMINATION: CEQA Exemption Section 15061(b)(3)

BACKGROUND: The California Environmental Quality Act (CEQA), the California Code of Regulations, and the Monrovia Municipal Code require the City of Monrovia to adopt objectives, criteria, and specific procedures consistent with CEQA and the State CEQA Guidelines for implementing its responsibilities under CEQA. The City last adopted CEQA Guidelines in March of 1993. Since then, CEQA and the State CEQA Guidelines have undergone continual and significant revision, but the City's regulations have not been updated. City Staff has relied on the current version of the California CEQA Guidelines to ensure compliance with environmental regulations. The draft City Council Resolution included as Exhibit "A" proposes to repeal the City's existing guidelines and formally adopt revised guidelines consistent with State law.

DISCUSSION/ANALYSIS: The California Environmental Quality Act was enacted by the state legislature in 1970. The primary purpose of CEQA is to identify and analyze potential significant environmental impacts related to proposed actions of local agencies, including the approval of private development projects. CEQA requires California public agencies to avoid or identify mitigation of the significant adverse environmental impacts caused by their actions whenever feasible *before* the agency approves a project. CEQA also provides individuals with the opportunity to participate in all steps of the environmental review process.

CEQA applies to all public agency activities, as well as private activities that may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. Under CEQA, if a project is discretionary, meaning that the agency has the authority to deny the requested permit or approval, some environmental review is required, unless an exemption applies. Most proposals for physical development in California are subject to CEQA, as are many governmental decisions that do not immediately result in physical development (such as adoption of a general or community plan).

State law requires a local jurisdiction to adopt its own regulations for the implementation of CEQA. The goal of the adoption of Local CEQA Guidelines is to create a comprehensive document that accurately reflects both state and local policies. With the ongoing revisions to CEQA and the State CEQA Guidelines due to frequent changes in legislation and ongoing case law, however, it is challenging to create a document that does not quickly become outdated.

Staff recommends that the City adopt the State CEQA Guidelines by reference, with the addition of several clarifications for items that are not specifically addressed within the State Guidelines. These clarifications include a list of ministerial projects, which are exempt from CEQA, and the process and timeline for determining that a project is statutorily or categorically exempt. The recommended regulations also establish the Community Development Director or his or her designee as the Environmental Officer for the City of Monrovia, who will be tasked with interpreting environmental regulations and determining if those regulations are adequately met.

Since CEQA continues to evolve, Staff recommends that the City adopt CEQA and the State CEQA Guidelines and all future revisions by reference. This will allow the City to be assured that any future changes to CEQA and the State CEQA Guidelines will be considered a part of the City's implementing procedures without further action required by the City. In these cases, the State Guidelines will prevail. Additionally, as further statutory changes are made to the State CEQA Guidelines, the City will automatically enforce the latest legislative changes. This strategy will allow the City to remain in compliance with CEQA, even as it continues to evolve.

Conclusion

The recommended regulations will allow the City to remain in compliance with the State CEQA Guidelines on a continuing basis.

RECOMMENDATION: Staff recommends approval of the adoption of the State California Environmental Quality Act Guidelines by reference with the addition of the projects identified in the proposed City Council Resolution. If the Planning Commission concurs with this recommendation then, the appropriate actions would be:

1. Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, the Planning Commission in the exercise of its independent judgment finds that the adoption of the State CEQA Guidelines is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City Staff has determined that the adoption of this Resolution will not have a significant environmental effect and therefore, adoption of this Resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR § 15061(b)(3)).
2. The Planning Commission finds that the custodian of records for all other materials that constitute the record of proceeding upon which this decision is based is the Planning Division Manager. Those documents are available for public review in the Planning Division located at 415 South Ivy Avenue, Monrovia, California, 91016.
3. The Planning Commission hereby recommends approval of the Local CEQA Guidelines outlined in the proposed City Council Resolution, subject to recommendations in the Staff Report, all of which are incorporated herein by this reference.

MOTION:

Recommend that the City Council Adopt Local CEQA Guidelines and Repeal Resolution 93-06, as presented in the Staff Report.

RESOLUTION NO. 2018-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONROVIA, REPEALING RESOLUTION NO. 93-06 AND ADOPTING LOCAL GUIDELINES TO IMPLEMENT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT BY INCORPORATING THE STATE (CEQA) GUIDELINES AS THE CITY'S CEQA GUIDELINES WITH CERTAIN LOCAL AMENDMENTS

RECITALS

WHEREAS, the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code § 21000 *et seq.*) and Title 14, of the California Code of Regulations § 15022, requires every public agency to adopt objectives, criteria, and specific procedures consistent with CEQA and the State CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations § 15000 *et seq.*) ("State CEQA Guidelines") for implementing its responsibilities under CEQA; and

WHEREAS, the public agency procedures assist in the orderly evaluation of projects and their potential effects on the environment and preparation of environmental documents; and

WHEREAS Monrovia Municipal Code §17.52 requires that the City Council of Monrovia adopt CEQA Guidelines for environmental review of projects; and

WHEREAS, the Monrovia City Council adopted CEQA Guidelines on March 16, 1993 under Resolution No. 93-06, which have become outdated; and

WHEREAS, the City now desires to update and streamline its implementing procedures and desires that they be consistent with the current provisions of CEQA and the State CEQA Guidelines and remain consistent on a continuing basis; and

WHEREAS, the purpose of this Resolution is to update and streamline the City's CEQA procedures by repealing, in its entirety Resolution No. 93-06, and replacing it with the State CEQA Guidelines and the local guidelines adopted by this resolution; and

WHEREAS this action is exempt from CEQA, pursuant to Section 15061(b)(3) of the State Guidelines. This section states that a project is exempt from CEQA if the activity is covered by general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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, the activity

is not subject to CEQA. The Local CEQA Guidelines are being updated to incorporate the State CEQA Guidelines and local procedures, which are technical changes concerning general policy for the implementation of CEQA; accordingly, there is no possibility that adopting these procedures will have a significant effect on the environment; and

WHEREAS, the Monrovia Planning Commission reviewed the proposed local CEQA Guidelines at the December 13, 2017 Planning Commission meeting and recommended approval of the Guidelines to the Monrovia City Council.

NOW, THEREFORE, the City Council of the City of Monrovia hereby finds, determines and resolves as follows:

Section 1. The City Council finds that all of the facts set forth in the Recitals of this Resolution are true and correct.

Section 2. Resolution No. 93-06 and the Guidelines that were adopted thereby are hereby repealed.

Section 3. The local CEQA Guidelines are hereby adopted as written below.

Section 4. Except as otherwise expressly provided herein, the provisions of CEQA and the State CEQA Guidelines are hereby adopted and made a part of this Resolution with the same effect as if fully set forth herein, and all the provisions thereof shall apply to projects proposed to be carried out or given discretionary review and approval by the City. All future revisions to CEQA and the State CEQA Guidelines shall hereafter be considered to be a part of the City's implementing procedures without further action by the City Council

Section 5. It is the intent of the City to conform to the requirements of the State CEQA Guidelines and CEQA. If any of the specific procedures or provisions adopted herein should be in conflict with CEQA or the State CEQA Guidelines, CEQA and the State CEQA Guidelines shall prevail. The City may administer its responsibilities under CEQA in any manner which meets the requirements of CEQA, notwithstanding the specific procedures and provisions set forth in the City's Local CEQA Guidelines below.

Section 6. City of Monrovia's Local CEQA Guidelines

(A) Definitions

- (1) CEQA** means Division 13 of the California Public Resources Code, commencing at Section 21000, as amended from time to time.
- (2) CEQA Guidelines** means the California Code of Regulations, Title 14, Chapter 3, commencing at Section 15000, as amended from time to time.

(B) Environmental Officer

The environmental officer for the City of Monrovia shall be the Community Development Director or his or her designee. Subject to appeal to the applicable decision-making body, the Environmental Officer shall be responsible for carrying out the following functions in implementing and administering these regulations:

- (1) Interpretation of these regulations and determination of substantial conformance therewith;
- (2) Determining whether an application is complete for environmental purposes;
- (3) Recommending an environmental determination;
- (4) Making de minimis determinations; and
- (5) Such other functions as may be reasonably required in order to administer these regulations.

(C) Public Projects (City of Monrovia as lead agency).

- (1) When the City plans to carry out a nonexempt public project, the responsible City department will participate in the environmental review process in a manner similar to that for private project applicants. All environmental documentation shall be prepared by the responsible department (or under the direction of that department), in coordination with the Environmental Officer or his or her designee. This coordination is intended to ensure consistency between the processing of private projects and the processing of public projects.
- (2) Public projects are not generally subject to mandatory time frames for processing.

(D) Private Projects.

- (1) When a private project is subject to discretionary review by the City, the applicant shall complete an environmental information form and any other required information, all of which shall be submitted to the Community Development Department.
- (2) The City encourages early consultation when prudent and feasible. Upon the request of an applicant and prior to filing of an application, the City shall provide for consultation regarding project entitlements, potential alternatives, mitigation measures, and potentially significant effects on the environment. Fees for such early consultation shall be prescribed by the City Council
- (3) All costs for the preparation and administration of environmental review for private projects shall be paid by the project applicant.

(E) Other Public Projects (City as responsible agency or subsequent approval body).

The City of Monrovia will follow the provisions in CEQA and the CEQA Guidelines for projects where the City is a responsible agency. As

appropriate, the Environmental Officer or his or her designee shall prepare comments and may solicit comments from other City departments on projects where the City is a responsible agency. As appropriate, the Environmental Officer or his or her designee may present draft comments to the Development Review Committee, Planning Commission or the City Council for review and approval.

(F) Other Projects (City as commenter).

- (1) If the Environmental Officer or his or her designee believes that a project may have an adverse or beneficial impact on the City, but the City is not a responsible agency, the Environmental Officer or his or her designee may request notice of the project's environmental review and the environmental documents for the purpose of providing comments and/or concerns related to the project. The Environmental Officer or his or her designee may prepare comments on environmental documents submitted to the City for review and on those projects where the Environmental Officer or his or her designee or a City department has reason to believe that the project may have an impact on the City. The Environmental Officer or his or her designee may refer the documents to other departments, the Development Review Committee, Planning Commission, or the City Council as appropriate.
- (2) If a City department believes that a project may have an adverse or beneficial impact on the City and would like to receive the environmental documents and/or participate in the environmental review of the project, the department shall notify the Environmental Officer or his or her designee of its interest or concern about the project, and the Environmental Officer or his or her designee may assist the department in providing comments on the project.

(G) Activities Exempt from Environmental Review.

- (1) In addition to those projects specifically enumerated as statutory or categorical exemptions from CEQA, the following projects are exempt from the other provisions of this article under the procedures enumerated below:
 - (a) **Non-projects.** CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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, the activity is not subject to CEQA or the provisions of this article.
 - (b) **Ministerial projects.** The following activities are determined to be ministerial projects exempt from the provisions of CEQA and this article:
 1. Issuance of building, mechanical, electrical, and plumbing permits

2. Issuance of business licenses
3. Approval of final subdivision maps
4. Approval of individual utility service connections and disconnections.
5. Issuance of encroachment permits in conjunction with a building permit for installation of a projecting sign or awning which projects over the City's right-of-way.
6. Review of noise violations
7. Approval of a nonconforming use change
8. Approval of swimming pool fences

(H) Exemption Procedures.

- (1) Preliminary determination of whether a project is exempt shall be made by the Environmental Officer or his or her designee, based upon the environmental information form and any other information provided by the applicant or other parties. This preliminary determination does not constitute a determination in accordance with the Permit Streamlining Act, Section 65950(a)(4) of the Government Code.
- (2) Final determination of whether a project is exempt shall be made by the Community Development Director, Development Review Committee, Planning Commission, City Council, or other body taking action on the project. The final determination shall start the timeline for final action on the project in accordance with Government Code Section 65950 (Article 5 of the Permit Streamlining Act).
- (3) A determination that a project is exempt may be appealed in accordance with the provisions of Title 16 or Title 17 of the Monrovia Municipal Code. An appeal of an action to approve or disapprove a project also shall be an appeal of the environmental determination.
- (4) The Environmental Officer or his or her designee shall determine whether to file a notice of exemption for a project that is approved. Any costs of filing shall be paid by the applicant for a private project.

(I) Negative Declarations.

- (1) Preliminary determination of whether a negative declaration shall be issued for a project shall be made by the Environmental Officer or his or her designee, based upon the environmental information form and any other information provided by the applicant or other parties.
- (2) Final determination of whether a negative declaration shall be issued for a project shall be made by the Community Development Director, Planning Commission, City Council, or other body taking action on the project. The final determination shall start the timeline for final action on the project in accordance with Government Code Section 65950 (Article 5 of the Permit Streamlining Act).
- (3) Notice of a proposed negative declaration shall be provided in accordance with the provisions of CEQA. Notice of a proposed

negative declaration may be combined with notice of a public hearing on the project.

- (4) A determination on a negative declaration may be appealed in accordance with the provisions of Title 16 or Title 17 of the Monrovia Municipal Code. An appeal on an action to approve or disapprove a project also shall be an appeal of the environmental determination.
- (5) The failure of any person or entity to receive notice shall not constitute grounds to invalidate the action on a negative declaration.
- (6) The Environmental Officer or his or her designee shall file a notice of determination and any de minimus filing for a project that is approved with a negative declaration. Any costs of filing shall be paid by the applicant for a private project.

(J) Environmental Impact Reports.

- (1) Preliminary determination of whether an Environmental Impact Report (EIR) is required for a project shall be made by the Environmental Officer or his or her designee, based upon the environmental information form and any other information provided by the applicant or other parties.
- (2) Early consultation and public review during the scoping process for an EIR is encouraged, particularly for projects which generate a great deal of public interest.
- (3) Notice of a proposed EIR shall be provided in accordance with the provisions of CEQA. Notice of a proposed EIR may be combined with notice of a public hearing on the project.
- (4) The Environmental Officer or his or her designee shall determine whether a proposed project is of statewide, regional, or area wide significance.
- (5) Prior to the issuance of any document as a draft or final EIR, administrative review shall occur at staff level. The City staff shall review the document for approach, substance, accuracy, objectivity, contract compliance, errors or omissions, conformity to regulatory requirements, and to ensure that the draft document ultimately circulated for public and agency review reflects the independent judgment of the City as required by Public Resources Code Section 21082. Administrative draft documents are to be retained by the City for the limited time necessary to accomplish the review described above. At the end of that period, the administrative copies are to be returned to the consultant for final editing, or discarded. No administrative draft documents are to be kept in the project files. Administrative draft documents are not a part of the record of proceedings, and are not considered a "public document" for the purposes of the Public Records Act or CEQA.
- (6) A determination on an EIR may be appealed in accordance with the provisions of Title 16 or Title 17 of the Monrovia Municipal Code. An

appeal on an action to approve or disapprove a project also shall be an appeal of the environmental determination.

- (7) The failure of any person or entity to receive notice shall not constitute grounds to invalidate the action on an EIR.
- (8) The Environmental Officer or his or her designee shall file a notice of determination for a project that is approved with an EIR. Any costs of filing shall be paid by the applicant for a private project.

(K) Additional Notices and Public Review Copies.

In addition to the notices and public review copies that may be required under CEQA and the State CEQA Guidelines, a public review copy of notices and environmental documents may be made available at the City Community Development Department. The Environmental Officer or his or her designee may provide additional notices or public review copies as is determined appropriate for any particular project.

Section 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 16th day of January 2018.

Tom Adams, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, CMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia