

Article 8: Implementation Procedures for the California Environmental Quality Act and the State CEQA Guidelines

Division 3: Procedures for Preparation and Review of Environmental Documents and Completion of the Environmental Review Process

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0301 Purpose of Procedures for Preparation and Review of Environmental Documents and Completion of the Environmental Review Process

The purpose of these procedures is to implement CEQA and the State CEQA Guidelines for the adequate, independent, and timely preparation and review of environmental documents and completion of the environmental review process.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0302 Time Limits for Preparation of Environmental Documents

- (a) In accordance with CEQA, Section 21151.5, completion and certification of a Negative Declaration shall not exceed 180 calendar days from the date the application for proposed *development* is *deemed complete*. Completion and certification of an EIR shall not exceed one year from the date the application is *deemed complete*.
- (b) These time limits for document preparation and review are contingent upon the project *applicant's* actions and shall be in conformance with the provisions of the Permit Streamlining Act, Government Code Section 65920, et. seq., except that time limits may be suspended as provided in the State CEQA Guidelines, Section 15109.
- (c) The one year time limit set forth in Section 128.0302(a) may be extended once for a period of not more than 90 days upon consent of the Planning Director and the *applicant*.

(Added 12-9-1997 by O-18451 N.S; amended 12-6-1999 by O-18728 N.S; effective 1-1-2000.)

(Amended 3-22-2018 by O-20917 N.S.; effective 4-21-2018.)

§128.0303 Who May Prepare an Environmental Document for the City

- (a) The Planning Director shall be responsible for preparation of environmental documents required by this article. The Planning Director is authorized to retain consultants to implement the provisions of this section and expend funds collected in accordance with Section 128.0206 for this purpose.
- (b) The Planning Director may choose one or more of the following alternatives for preparing a draft environmental document:
 - (1) Have City staff prepare the draft environmental document;
 - (2) Contract with another entity, public or private, to prepare the draft environmental document;
 - (3) Execute a three-party agreement or memorandum of understanding with the *applicant* and an independent environmental consultant to govern the preparation of a draft environmental document by the independent environmental consultant based on a scope of work prepared by the Planning Director; or
 - (4) Allow a draft environmental document to be prepared by an environmental consultant retained by the *applicant* based on a scope of work prepared by the Planning Director.
- (c) An environmental document prepared in accordance with this section shall be subject to the requirements for independent review and analysis set forth in Section 128.0103(b) and shall not be released for public review until the Planning Director determines that the document is adequate.
- (d) The Planning Director shall review and consider for inclusion in an environmental document any information regarding the project submitted by any person.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

§128.0304 Notice of Preparation of an Environmental Impact Report

After the Planning Director has determined that an EIR is required for a project, the Planning Director shall send to each Responsible Agency, each Federal Agency involved in approving or funding the project, and each Trustee Agency responsible for natural resources affected by the project a Notice of Preparation stating that an EIR will be prepared. The contents, distribution, and procedures for the Notice of Preparation shall be consistent with the State CEQA Guidelines, Section 15082.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

§128.0305 Public Notice of Draft Environmental Documents

- (a) Notice of Availability of a Draft Environmental Document. When a draft environmental document has been prepared and is available for public review and comment, the City Manager shall prepare and distribute a Notice of Availability.
 - (1) Content. The Notice of Availability of a draft environmental document shall include the following information:
 - (A) A brief description of the proposed *development* and its location;
 - (B) The address at which copies of the draft environmental document will be available for public review;
 - (C) The dates of the public review period; and
 - (D) The address to which written comments may be sent.
 - (2) Distribution. The City Manager shall distribute the notice as follows:
 - (A) By publishing the Notice of Availability one time in a newspaper of general daily circulation;
 - (B) By sending copies of the Notice of Availability to all organizations and individuals who have previously requested the notice;
 - (C) By sending a copy of the Notice of Availability to the officially recognized community planning group that represents the planning area where the proposed *development* is located; and
 - (D) By sending a copy of the Notice of Availability to the public library serving the area involved.

- (3) Community Newspaper Notification. The City Manager may send a copy of the Notice of Availability to a community newspaper within the community planning area where the proposed *development* is located.
- (b) In addition, as soon as a draft EIR is completed, a Notice of Completion must be filed with the State Office of Planning and Research consistent with the State CEQA Guidelines, Section 15085.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0306 Required Time Periods for Public Review and Comment on Draft Environmental Documents

The public review period for other public agencies and members of the public to review and comment on Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports, and Addenda to environmental documents shall be consistent with CEQA and the State CEQA Guidelines.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Retitled to “Required Time Periods for Public Review and Comment on Draft Environmental Documents” and amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

§128.0307 Requests for Additional Public Review Time on the Draft Environmental Document

The Planning Director may approve a request from the affected officially recognized community planning group or *interested party* if there is no officially recognized community planning group for an additional review period not to exceed 14 calendar days. The additional time for review shall not extend the time for action beyond that required under law. The failure to allow additional time for review shall not invalidate any discretionary approval based upon the document for which the additional review time was requested.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

§128.0308 Responses to Comments on the Draft Environmental Documents

The Planning Director shall prepare, or supervise preparation of, written responses to letters of comment received during the public review period for all environmental documents. Both the letters of comment and the responses shall be attached to the final environmental document.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

§128.0309 Recirculation of a Draft Environmental Document

When significant new information is added to an environmental document after notice is given of the availability of the document for public review but before it is certified, the Planning Director shall recirculate the draft environmental document consistent with the State CEQA Guidelines, Section 15088.5.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

§128.0310 Draft or Final Environmental Document Distribution and Availability

An environmental document consisting of all information required by CEQA and the State CEQA Guidelines and any other information the Planning Director may add shall be distributed for review according to CEQA and the State CEQA Guidelines, and the following:

(a) Environmental Document Distribution to the Public

The Planning Director shall post an environmental document to the City's web page prior to an advisory body making a recommendation required by law or the date that the decision maker considers approval.

(b) Environmental Document Distribution to an Advisory Body

An advisory body required by law to make a recommendation on a project shall consider the environmental document in draft or final form.

(c) Final Environmental Document Distribution to the Decision Maker

A decision maker required to consider approval of a project shall consider the environmental document in final form.

(d) Final Environmental Document Distribution to Public Agencies

The Planning Director shall provide a final environmental document to any public agency that commented on the draft environmental document, consistent with CEQA.

(e) Comment on Final Environmental Document

The intent of distributing the final environmental document is to provide other public agencies, the public, and the decision makers the opportunity to review the final environmental document prior to a decision being made on the project. No comments will be solicited and no written responses to comments on final environmental documents are required to be prepared.

(Added 6-19-2000 by O-18814 N.S.)

(Amended 3-1-2006 by O-19468 N.S.; effective 4-1-2006.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

(Retitled to "Draft or Final Environmental Document Distribution and Availability" and amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

§128.0311 Decision on an Environmental Document

- (a) Consistent with CEQA and the State CEQA Guidelines, except as provided in Section 128.0311(b) through (d), before approving a *development permit* or other discretionary action, the decision maker shall certify that:
- (1) The final environmental document has been completed in compliance with CEQA and the State CEQA Guidelines; and
 - (2) The information contained in the final environmental document reflects the independent judgment of the City of San Diego as the Lead Agency and has been reviewed and considered by the decision maker before approving the project.
- (b) When an EIR has been certified or a Negative Declaration has been adopted for a project, no subsequent EIR shall be prepared for that project unless required under CEQA and the State CEQA Guidelines.
- (c) If the decision maker is acting as a Responsible Agency, the decision maker shall act on the environmental document in accordance with CEQA and the State CEQA Guidelines.

- (d) If the decision maker denies the project, the environmental document need not be certified.

(Added 6-19-2000 by O-18814 N.S.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

(Retitled from "Certification of an Environmental Document" to "Decision on an Environmental Document" and amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

[Editors Note: Amendments as adopted by O-21164 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21164-SO.pdf]

§128.0312 Adoption of Findings and Statement of Overriding Considerations by the Decision Maker

Before approving a project for which the final EIR identifies one or more significant effects, the decision maker shall adopt the required *findings* in accordance with the State CEQA Guidelines, Section 15091. When the decision to approve the project allows the occurrence of significant effects that are identified in the final EIR but are not avoided or substantially mitigated, the decision maker shall make a statement of overriding considerations stating the specific reasons to support the decision based on the final EIR and other information in the record in accordance with the State CEQA Guidelines, Section 15093.

- (a) Review of Further Information

If before making a decision, the decision maker determines that substantive additional information has been presented at the public hearing requiring further review, the decision maker may refer the information to the Planning Director for analysis, provided the referral does not adversely affect any time limits imposed by law.

- (b) Preparation of *Findings* and Statement of Overriding Considerations

The *findings* and the statement of overriding considerations shall be in writing and shall be based on the entire record of proceedings.

(c) Availability of *Findings* and Statement of Overriding Considerations

Where *findings* or a statement of overriding considerations are required in accordance with Section 128.0312, the Planning Director shall make a draft available to the public and decision maker in accordance with Section 128.0310(c). Failure to provide this 14 calendar day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project.

(Added 6-19-2000 by O-18814 N.S.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

(Retitled to "Adoption of Findings and Statement of Overriding Considerations by the Decision Maker" and amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

§128.0313 Notice of Determination

The Planning Director, or City Clerk as appropriate for Process Five decisions, shall file a Notice of Determination within 5 working days of the *date of final action* for each project approval for which an environmental document was considered. The contents of the Notice of Determination and procedures for its filing shall be consistent with the State CEQA Guidelines, Section 15075 and 15094.

(Added 6-19-2000 by O-18814 N.S.)

(Amended 3-1-2006 by O-19468 N.S.; effective 4-1-2006.)

(Amended 2-12-2014 by O-20348 N.S.; effective 3-14-2014.)

§128.0314 Erroneous Information in Environmental Documents

(a) If the City Manager determines that an environmental document was certified based on erroneous information that was both material to, and had a substantial effect on, the *findings* and conclusions of the document and any related statement of overriding considerations, the City Manager shall determine the need for corrective action. If the City Manager determines that necessary corrective action cannot be taken in accordance with the provisions of CEQA and the State CEQA Guidelines, the permit revocation authority and procedures of Sections 121.0313 through 121.0316 shall be used.

(b) This section shall not apply if the information originally submitted was considered valid at the time of certification of the environmental document but later methodology establishes that the information is no longer valid.

(Amended 6-12-2001 by O-18948 N.S.)