



CITY OF WILDOMAR

LOCAL CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES & PROCEDURES

Adopted by the Wildomar City Council on August 12, 2015

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CITY OF WILDOMAR

LOCAL CEQA GUIDELINES & PROCEDURES

SECTION 1 – PURPOSE/AUTHORITY

The purpose of these procedures is to provide officials of the City and private individuals with the environmental review requirements as set forth in Sections 21000, et seq., of the Public Resources Code (California Environmental Quality Act of 1970 (CEQA)), as amended, and consistent with the Guidelines for Implementation of CEQA, adopted by the California Department of Resources and found in Division 6, Title 14 of the California Administrative Code. The purpose of the City’s Local CEQA Guidelines and Procedures is to streamline the environmental review process consistent with State Law.

Section 1.1 – Application

These Local CEQA Guidelines and Procedures apply to all projects, both public and private, requiring approval by the City of Wildomar.

Section 1.2 – CEQA and CEQA Guidelines

CEQA and the CEQA Guidelines as adopted and amended by the State of California are hereby incorporated by reference into Wildomar’s Local CEQA Guidelines and Procedures. Specific sections of CEQA and the CEQA Guidelines may be restated in this document for emphasis and clarification. In the event of a conflict between this document and CEQA and the CEQA Guidelines, CEQA and the CEQA Guidelines shall control and operate in the City of Wildomar.

Section 1.3 – Revisions

All revisions to these Local CEQA Guidelines and Procedures shall be approved by Resolution of the City Council.

SECTION 2 – DEFINITIONS AND RESPONSIBILITIES

Section 2.1 – Definitions

For the purpose of these Local CEQA Guidelines and Procedures, certain words and phrases are defined as set forth below. The definitions set forth in CEQA and the CEQA Guidelines are hereby incorporated by reference as though fully set forth herein.

A. Applicant

“Applicant” shall mean the person, entity, City department, or agency which has made application to the City for review or Approval of any activity which is deemed a Project pursuant to CEQA.

B. Approval

“Approval” shall mean the decision by the City which commits the City to a definite course of action in regard to a Project intended to be carried out by any person. With private Projects, Approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan or other form of financial assistance, lease, permit, license, certificate or other entitlement for use of the Project.

C. Categorical Exemption

“Categorical Exemption” shall mean an exemption from CEQA for a class of projects based on a finding from the State Secretary of Resources that the class of projects does not have a significant effect on the environment (See Sections 15300 et seq. of the CEQA Guidelines).

D. CEQA

“CEQA” shall mean the California Environmental Quality Act of 1970, California Public Resources Code Sections 21000 et seq., as amended.

E. CEQA Guidelines

“CEQA Guidelines” shall mean the Guidelines for the Implementation of CEQA, Sections 15000 et seq., Division 6 of Title 14 of the California Administrative Code, as amended, and as adopted by the California Department of Resources.

F. City

“City” shall mean the City of Wildomar.

G. City Council

“City Council” shall mean the City Council of the City of Wildomar.

H. Decision-making Body

“Decision-making Body” shall mean the person, commission or council which has authority by law or ordinance to make a final decision to approve or disapprove the Project at issue.

I. Discretionary Project

“Discretionary Project” shall mean a project which requires the exercise of judgment or deliberation when the City decides to approve or deny a particular activity, as distinguished from situations where the City merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations (e.g., ministerial project). Examples of discretionary projects include, but are not limited to, general plan amendments, changes of zone, subdivisions, conditional use permits, and plot plans.

J. Environment

“Environment” shall mean the physical conditions which exist within the area which will be affected by a proposed project, including, but not limited to, land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The environment includes both natural and manmade conditions.

K. Environmental Impact Report (EIR)

“EIR” shall mean a detailed statement prepared under CEQA describing and analyzing the significant environmental impacts of a project and discussing ways to mitigate or avoid the impacts. The term EIR may mean either a Draft or Final EIR.

1. “Draft EIR” means an EIR that undergoes public review and contains the information specified in Sections 15120 et seq. of the CEQA Guidelines and Section 7 of these Local CEQA Guidelines and Procedures.
2. “Final EIR” means an EIR consisting of the Draft EIR, comments received during the public review process, a list of persons commenting, and the responses of the Lead Agency to the comments received. The Final EIR is described in Section 15132 of the CEQA Guidelines and Section 7 of these Local CEQA Guidelines and Procedures.

L. Initial Study

“Initial Study” shall mean a preliminary analysis prepared by the Lead Agency to determine whether an EIR, Negative Declaration, or Mitigated Negative Declaration must be prepared or to identify the significant impacts to be analyzed in an EIR.

M. Lead Agency

“Lead Agency” shall mean the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an

EIR, Negative Declaration, or Mitigated Negative Declaration will be required for a project and will cause the document to be prepared.

N. Ministerial Project

“Ministerial Project” shall mean a governmental decision involving little or no personal judgment by the City (e.g., issuance of a building permit). The City merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision.

O. Mitigation Measure

“Mitigation Measure” shall mean a condition or change to a project for the purpose of avoiding or reducing one or more of the project’s potentially significant adverse environmental impacts.

P. Mitigated Negative Declaration (MND)

“Mitigated Negative Declaration” shall mean a Negative Declaration prepared when an Initial Study has identified potentially significant impacts, but revisions to the project or Mitigation Measures made by or agreed to by the applicant clearly reduces the impacts of the proposed project to less than significant levels, and there is no substantial evidence in light of the whole record that the project, as revised, may have a significant impact. applicant

Q. Mitigation Monitoring and Reporting Program

“Mitigation Monitoring and Reporting Program” or “MMRP” shall mean the program for reporting on or monitoring changes the City has required in a project or made a condition of approval of a project to mitigate or avoid significant impacts that is approved by the City at the time an MND is approved or an EIR is certified.

S. Negative Declaration (ND)

“Negative Declaration” shall mean a written statement by the Lead Agency briefly describing the reasons a proposed project, not otherwise exempt from CEQA, will not have a significant impact on the environment and does not require the preparation of an EIR.

T. Planning Commission

“Planning Commission” shall mean the Planning Commission of the City of Wildomar.

U. Planning Director

“Planning Director” shall mean the Planning Director of the City of Wildomar, or his or her designee.

V. Project

“Project” shall mean the whole of an action which has the potential for resulting either in a direct physical change to the environment, or reasonably foreseeable indirect physical changes to the environment (reference Section 15378 of the CEQA Guidelines).

W. Responsible Agency

“Responsible Agency” shall mean a public agency other than the Lead Agency which has discretionary approval power over a project.

X. Significant Impact

“Significant Impact” shall mean a substantial, or potentially substantial, adverse change in any of the physical conditions within an area affected by the proposed project including, but not limited to, land, air, water, minerals, flora, fauna, ambient noise, and objects of historical and aesthetic significant. An economic or social change by itself shall not be considered a significant impact on the environment, but may be considered in determining whether the physical change is significant.

Y. Statement of Overriding Considerations

“Statement of Overriding Considerations” shall mean the written determination made by the decision-making body in conjunction with the certification of an EIR for a project that has significant impacts that cannot be feasibly mitigated to less than significant levels that the project’s remaining significant impacts are acceptable due to overriding concerns as described in Section 15093 of the CEQA Guidelines.

Z. Substantial Evidence

“Substantial Evidence” shall mean enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions may also be reached. Whether a fair argument can be made is determined by examining the whole record before the Lead Agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated on facts, and expert opinion supported by facts.

AA. Trustee Agency

“Trustee Agency” shall mean a State Agency having jurisdiction by law over natural resources affected by a proposed project which are held in trust for the people of the State of California.

Section 2.2 – Responsibilities

For the purpose of these Local CEQA Guidelines and Procedures, the following procedural responsibilities are to be followed:

A. City Council

When the City Council is the final decision-making body on a project, the City Council has the authority for certifying Final EIRs, and approving Mitigated Negative Declarations, Negative Declarations, and Categorical Exemptions.

In accordance with Section 11 of these Local CEQA Guidelines and Procedures, the City Council also acts as the appeal board for Planning Commission decisions on environmental determinations, including Finals EIRs, Negative Declarations, Mitigated Negative Declarations, and Categorical Exemptions.

B. Planning Commission

When the Planning Commission is the final decision-making body on a project, the Planning Commission has the authority for certifying Final EIRs, and approving Mitigated Negative Declarations, Negative Declarations and Categorical Exemptions. When the Planning Commission acts as an advisory body on a project, the Planning Commission shall review and make a recommendation on the environmental document to the City Council.

In accordance with Section 11 of these Local CEQA Guidelines and Procedures, the Planning Commission also acts as the appeal board for Planning Director decisions on Categorical Exemptions.

C. Planning Director

When the Planning Director is the final decision-maker on a project, the Planning Director has the authority for approving Categorical Exemptions. The Planning Director does not have the authority to certify Final EIRs or approve Mitigated Negative Declarations or Negative Declarations.

The Planning Director shall make all determinations on the level of environmental review required for all projects. The Planning Director also directs the preparation of all environmental documents.

D. Planning Department

The Planning Department, under the direction of the Planning Director, is responsible for the coordination and implementation of the City's Local CEQA Guidelines and Procedures. The Planning Department is also responsible for the preparation and processing of all environmental documents as well as preparing and filing all applicable environmental notices, including the filing of Notices of Determination and Notices of Completion.

SECTION 3 – GENERAL POLICIES

Section 3.1 – General Policies

The City Council finds that:

- A. Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.
- B. It is the intent of the City Council that all departments and contract staff of the City which regulate activities of private individuals, corporations, and public agencies, including the City itself, which are found to affect the quality of the environment, shall regulate such activities so that major considerations are given to preventing environmental damage.

Section 3.2 – General Purpose of CEQA

The City Council further finds that the basic purposes of CEQA are:

- A. Inform governmental decision-makers and the public about the potential significant environmental impacts of proposed projects.
- B. Identify ways that environmental impacts can be avoided or significantly reduced.
- C. Prevent significant, avoidable impacts to the environment by requiring changes in projects through use of alternatives or mitigation measures when the City finds the changes to be feasible.
- D. Disclose to the public the reasons why the City approved the project if significant environmental impacts are involved.

Section 3.3 – Reducing Delay and Paperwork

The City Council further finds that the City shall reduce delay and paperwork in implementing these procedures by:

- A. Integrating the CEQA process into the early stages of a project.
- B. Identifying projects that are exempt from CEQA under either a Statutory Exemption or Categorical Exemption as early as is possible, in accordance with Article 18 & 19 of the CEQA guidelines.
- C. Using initial studies to identify significant environmental impacts and, thereby, narrow the scope of environmental documents.

- D. Using a Negative Declaration when a project not otherwise exempt from CEQA will not have a significant impact on the environment.
- E. Using a Mitigated Negative Declaration when a project not otherwise exempt from CEQA will not have a significant impact on the environment with the incorporation of mitigation measures or changes to the project.
- F. Using a previously prepared environmental document when it adequately addresses the impacts of the proposed project.
- G. Urging applicants, either before or after the filing of an application, to revise projects to eliminate potential significant environmental impacts, thereby, enabling the project to qualify for a Mitigated Negative Declaration or Negative Declaration instead of an EIR.
- H. Eliminating repetitive discussions of the same issues by utilizing EIRs on programs, policies, or plans to narrow the scope of discussion in environmental documents for narrower projects.
- I. Mentioning only briefly issues other than significant environmental impacts in EIRs.
- J. Writing environmental documents in plain language.
- K. Using incorporation by reference whenever possible.
- L. Using electronic files (e.g., pdf's, CD's or similar) for all environmental documents, whenever feasible, including supporting technical studies associated with a project. Further, distribution of all environmental documents, including supporting technical studies, to Trustee and Responsible Agencies, local agencies and interested persons shall be in electronic format.
- M. Considering compliance with all existing federal, state and local laws, regulations and procedures designed to address environmental impacts during the analysis of whether a project will have a significant impact without mitigation.

Section 3.4 – General Responsibilities

For the purpose of these Local CEQA Guidelines and Procedures, the following general responsibilities are to be followed:

- A. It is the responsibility of the Planning Director, as authorized by the City Council, to ensure that all City departments, employees, contract staff and environmental consultants comply with the provisions of CEQA, the CEQA Guidelines, and these Local CEQA Guidelines and Procedures. Whether the City prepares the

environmental document itself or contracts for its preparation, the City is entirely responsible for the adequacy and objectivity of the document.

- B. The City will endeavor to carry out its responsibilities for preparing and reviewing environmental documents within a reasonable period of time, as prescribed within state law, so as not to cause undue delays in processing of applications for permits or other entitlements. An unreasonable delay by an applicant in meeting requests by the City necessary for the preparation of a Negative Declaration, Mitigated Negative Declaration and/or an EIR shall suspend the running of the time periods described in Sections 15107 and 15108 of the CEQA Guidelines for the period of the unreasonable delay.

SECTION 4 – ENVIRONMENTAL DETERMINATIONS

Once a project application has been filed with the City, the Planning Director will review the project and make an initial environmental determination. The determination will generally follow the process outlined in Appendix A (CEQA Process Flow Chart) of the CEQA Guidelines.

Section 4.1 – Preliminary Evaluation

The preliminary evaluation consists of determining whether or not the proposal is a project, whether it is a Discretionary Project or Ministerial Project, or is exempt from CEQA under a Statutory Exemption or Categorical Exemption, or was adequately reviewed in a previous environmental document. These steps are sequential and are described below.

Section 4.1.1 – No Project, Ministerial, Statutory Exemption

The Planning Director shall determine whether the proposal is a project, and if so whether the project is a ministerial or discretionary project, or exempt from CEQA under a Statutory Exemption. If it is determined that the project is ministerial or exempt under a Statutory Exemption, no further environmental review is required. Please refer to Section 5 of these Local CEQA Guidelines and Procedures for a more detailed discussion of ministerial projects and Statutory Exemptions and the process for filing a Notice of Exemption with the Riverside County Clerk.

Section 4.1.2 – Categorical Exemptions

If the proposal is determined to be a discretionary project and is not covered by a Statutory Exemption, the project will be reviewed to determine if the project qualifies for a Categorical Exemption as contained in Section 5 of these Local CEQA Guidelines and Procedures and the CEQA Guidelines. If the project qualifies for a Categorical Exemption, that recommendation will be made to the decision-making body as part of the project consideration proceedings. The decision-making body will make the final determination that the project is categorically exempt. The process for filing a Notice of Exemption Riverside County Clerk is contained in Section 5 of these Local CEQA Guidelines and Procedures.

Section 4.1.3 – Previous Environmental Document

If the proposal is a discretionary project that does not qualify for a statutory or Categorical Exemption, the project may have been adequately reviewed in a previous EIR, Mitigated Negative Declaration, or Negative Declaration. If this determination is made based on review of the previous environmental document, and taking into account current site and cumulative conditions (reference CEQA Guidelines 15162 through 15164), the city may determine to prepare an addendum or supplement to the previous environmental document, or conclude that no further environmental review is required, and that any mitigation measures from the previous environmental document shall be incorporated into the proposed project.

Section 4.2 – Initial Study

If a proposed project does not meet any of the requirements contained in Section 4.1, the project is required to undergo further environmental review through the Initial Study process. Alternatively, if an EIR will be clearly required for a project, the City may skip the Initial Study and begin work directly on the EIR. The Planning Department will prepare the Initial Study, or have it prepared under their direction. The Initial Study will determine whether a Negative Declaration, Mitigated Negative Declaration, or an EIR is required for the proposed project. The Planning Director may request additional environmental information from the applicant in order to make the environmental determination. Failure to completely provide the additional information may delay processing of the project. The standard Initial Study/Environmental Checklist is provided in Appendix B.

Section 4.2.1 – Significance Determination

If the Initial Study determines, based on substantial evidence in light of the whole record, that a project may have one or more significant or potentially significant impacts on the environment, then an EIR must be prepared. However, if revisions or mitigation measures can be applied to the project that would clearly reduce all impacts to a level of insignificance, and these revisions or mitigation measures are agreed to by the applicant, then a Mitigated Negative Declaration can be prepared. Please refer to Section 6 of these Local CEQA Guidelines and Procedures for the Mitigated Negative Declaration process, and Section 7 of these Local CEQA Guidelines and Procedures for the EIR process. The criteria for determining a significant impact on the environment are contained in the CEQA Guidelines.

SECTION 5 – PROJECTS EXEMPT FROM ENVIRONMENTAL REVIEW

Projects that are ministerial, categorically exempt, or are statutorily exempt do not require the preparation of an EIR, Mitigated Negative Declaration, or Negative Declaration. The City may file a Notice of Exemption (Appendix E of the CEQA Guidelines) with the Riverside County Clerk in accordance with the time limits prescribed by CEQA after the project is approved.

Section 5.1 – Ministerial Projects

When a project involves an approval that contains elements of both a ministerial action and a discretionary action, or the Planning Director determines that the project may have environmental impacts that may require further review, the project will be deemed to be discretionary and will be subject to the requirements of CEQA and the CEQA Guidelines.

Section 5.2 – Categorical Exemptions

Section 15300 et seq. of the CEQA Guidelines lists the projects, as determined by the State Secretary of Resources, that do not have a significant impact on the environment. These classes of projects are declared to be categorically exempt from CEQA and do not require the preparation of an environmental document. However, certain exceptions apply to these projects as noted in Section 5.2.1 of these Local CEQA Guidelines and Procedures. If any of these exceptions apply, the project is no longer categorically exempt and the appropriate environmental document must be prepared.

Section 5.2.1 – Exceptions

A Categorical Exemption shall not be applicable if any of the following conditions apply to a project.

1. **Location**

Categorical Exemption classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to be exempt in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

2. **Cumulative Impact**

All Categorical Exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time, is significant.

3. Unusual Circumstances

A Categorical Exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant impact on the environment due to unusual circumstances. A potentially significant impact in and of itself is not an “unusual circumstance,” though it may be indicative of the existence of an unusual circumstance. Determining whether this exception applies involves a two-step analysis. First, a determination whether unusual circumstances exist must be made, supported by substantial evidence. If it is determined that unusual circumstances exist, then the second step is determining whether the unusual circumstances give rise to a reasonable possibility that the activity will have a significant impact on the environment. If a fair argument can be made that the unusual circumstances may result in a significant impact, then the exception applies and the activity cannot be categorically exempt.

4. Scenic Highways

A Categorical Exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, or within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted Mitigated Negative Declaration or certified EIR.

5. Hazardous Waste Sites

A Categorical Exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

6. Historical Resources

A Categorical Exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historic resource, as defined and discussed in CEQA Guideline 15064.5(a)-(b).

Section 5.3 – Statutory Exemption

Certain other projects are exempt from CEQA by statute. Those statutes are listed in Section 15260 et seq. of the CEQA Guidelines.

Section 5.4 – Notice of Exemption (NOE)

When the City determines that a project is exempt from the requirements of CEQA, it may file a Notice of Exemption (Appendix E of CEQA) in accordance with Section 15062 of the CEQA Guidelines. The filing of the NOE with the County Clerk starts a 35 day statute of limitations on legal challenges to the City’s decision that the project is exempt from CEQA.

SECTION 6 – NEGATIVE/MITIGATED NEGATIVE DECLARATION PROCESS

Section 6.1 – Negative Declaration

A Negative Declaration (ND) shall be prepared if the initial study shows that the proposed project will not have significant impact on the environment. The Planning Director will prepare the Negative Declaration for adoption by the decision-maker. The contents and processing of a Negative Declaration are described in Sections 6.3 and 6.4 of these Local CEQA Guidelines and Procedures.

Section 6.2 – Mitigated Negative Declaration

A Mitigated Negative Declaration (MND) shall be prepared if the Initial Study finds:

- A. The proposed project may have possible adverse environmental impacts on the environment, but through revisions to the project or the imposition of mitigation measures, such impacts are mitigated or avoided so that clearly no significant impacts remain, and
- B. There is no substantial evidence in the entire record that significant impacts would result from the project as revised or mitigated.

The applicant must agree to these revisions or mitigation measures before the Mitigated Negative Declaration can be released for public review. This agreement is accomplished by the applicant signing the Determination Page of the MND document. Once the Determination Page of the MND is signed by the applicant, the Planning Director will release the Mitigated Negative Declaration for public review and process the document for adoption by the decision-makers. The decision-makers shall make all mitigation measures conditions of project approval. Notwithstanding the foregoing, Mitigation Measures may be altered, deleted, or added after the Mitigated Negative Declaration is released for public review as a result of the public review and approval process.

The contents and processing of a Mitigated Negative Declaration are described in Sections 6.3 and 6.4 of these Local CEQA Guidelines and Procedures.

Section 6.3 – Contents of Negative/Mitigated Negative Declarations

The Negative/Mitigated Negative Declaration must contain all of the items required in Section 15071 of the CEQA Guidelines.

Section 6.4 – Processing of Negative/Mitigated Negative Declarations

Section 6.4.1 – Public Notice and Review

A Notice of Intent (NOI) to Adopt a Negative/Mitigated Negative Declaration shall be prepared in accordance with Section 15072 of the CEQA Guidelines. The City has adopted the following minimum noticing standards in accordance with Section 15072 of the CEQA Guidelines:

1. The Notice of Intent/Notice of Availability shall be published one time in the Press Enterprise, or similar local newspaper of general circulation, prior to releasing the ND/MND for public review.
2. The Notice of Intent/Notice of Availability shall be submitted to the Riverside County Clerk prior to releasing the ND/MND for public review in accordance with the time limits prescribed by CEQA.
3. Mailing the Notice of Intent to organizations and individuals who have requested such notice in writing.

The Negative/Mitigated Negative Declaration document shall be made available for public review in the following manner:

1. A hard copy of the ND/MND will be made available for review at the Wildomar Planning Department. Copies of the technical appendices will be made available for review in the form of a CD. The City will make a hard copy of any technical appendices available for review upon request if the City holds the requested appendices in hard copy format.
2. An electronic copy of the ND/MND (with technical appendices) will be made available on the City's Environmental Documents webpage at the following web address (<http://www.cityofwildomar.org/environmental-documents.asp>).
3. A copy of the ND/MND (with technical appendices) shall be submitted to the State Clearinghouse for distribution to applicable Responsible or Trustee Agencies regardless if it the project is of statewide, regional or area wide importance.
4. A copy of the ND/MND (with technical appendices) shall be provided to the Applicant.
5. A copy of the ND/MND (with technical appendices) shall be provided to any interested person(s) requesting review of the ND/MND, as well as those persons/agencies identified on the City's local distribution list. Persons

requesting a hard copy of the ND/MND and/or technical appendices must pay for the City's copying costs.

The public review period for Negative/Mitigated Negative Declarations is a minimum of 30 days. All Negative/Mitigated Negative Declarations will be sent to the State Clearinghouse. The 30-day review period begins when the State Clearinghouse distributes the document to appropriate state agencies.

Section 6.4.2 – Adoption of Negative/Mitigated Negative Declarations

Before approving a project, the decision-making body shall consider the draft Negative/Mitigated Negative Declaration, any comments received during the public review period and up to the close of the public hearing, and the City's responses to public comments. The City shall prepare a written response to all comment letters received during the public review period. All comment letters shall be attached to the Negative/Mitigated Negative Declaration. If the decision-making body finds, based on the Negative/Mitigated Negative Declaration and any comments received, that there is no substantial evidence that the project may have a significant impact on the environment, the decision-making body may authorize the filing of the Negative/Mitigated Negative Declaration. In the case of a Mitigated Negative Declaration, the decision-making body must also incorporate all feasible mitigation measures into the project as conditions of approval. A mitigation monitoring and reporting program shall also be adopted with a Mitigated Negative Declaration (see Section 8 of these Local CEQA Guidelines and Procedures).

Section 6.4.3 – Notice of Determination

Within five working days after the decision-making body approves a project for which a Negative/Mitigated Negative Declaration has been adopted, the Planning Director shall file a Notice of Determination with the Riverside County Clerk, including the County's Administration fee and applicable Fish and Wildlife fee.

If the Negative/Mitigated Negative Declaration was submitted to the State Clearinghouse for review, the Notice of Determination shall also be filed with the State Office of Planning and Research in accordance with CEQA Guidelines.

The complete Notice of Determination paperwork consists of the following:

- A. A cover letter;
- B. The Notice of Determination Form (Appendix H);
- C. The Negative/Mitigated Negative Declaration form (Appendix E); and
- D. The applicable Fish and Wildlife fee.
- E. Riverside County Filing Fee

SECTION 7 – ENVIRONMENTAL IMPACT REPORT (EIR) PROCESS

Section 7.1 – EIR Required

An EIR shall be prepared if the Initial Study shows that the proposed project may, or will, have a significant impact on the environment. The Planning Director will prepare, or contract with a consultant to prepare, the EIR for certification by the decision-makers. Alternatively, if an EIR will be clearly required for a project, the City may skip the Initial Study and begin work directly on the EIR.

Section 7.2 – Types of EIRs

The various types of EIR's are described in Section 15160 et seq. of the CEQA Guidelines.

Section 7.3 – General Requirements

The following general requirements must be followed when processing an EIR in the City of Wildomar:

- A. EIRs must contain all items noted in Section 15120 et seq. of the CEQA Guidelines.
- B. EIRs should be written in language sufficiently simple that issues can be understood by an average member of the public.
- C. The information contained in the EIR shall include a summary of technical data, maps, diagrams, and similar information sufficient to permit full assessment of the environmental impacts by Responsible and Trustee Agencies and the general public. Placement of highly technical and specialized analysis and data in the body of the EIR should be avoided through inclusion of these data in technical appendices. Appendices to an EIR may be prepared in volumes separate from the basic EIR, but shall be available for public review and shall be submitted to all Responsible and Trustee Agencies.
- D. The EIR will be prepared using a systematic interdisciplinary approach. The interdisciplinary analysis shall be conducted by competent individuals, but no single discipline shall be required to prepare an EIR. Preparation of EIRs is dependent on information from many sources. The EIR shall reference all documents used in the preparation and the location where these documents may be viewed.
- E. The EIR shall discuss environmental impacts in proportion to their severity and probability of occurrence. Impacts dismissed in the Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the City subsequently receives relevant information inconsistent with the finding in

the initial study. A copy of the Initial Study should be included as an appendix to the EIR.

- F. An EIR shall contain a statement briefly indicating the reasons for determining that impacts that could possibly be considered significant were found to be insignificant and are not discussed in detail in the EIR.
- G. Preparing an EIR involves some degree of forecasting. While forecasting the unforeseeable is not possible, every effort will be made to find and disclose all reasonable information. If, after thorough investigation, the City finds that a particular impact is too speculative for evaluation, the City will note this conclusion and terminate the discussion of the impact in the EIR.
- H. An EIR may incorporate by reference any or all portions of another document which are a matter of public record or are generally available to the public. Where all or part of another document is incorporated by reference, the incorporated language shall be considered to be set forth in full as part of the EIR. The location where the referenced document may be viewed shall be cited in the EIR.

Section 7.4 – Processing an EIR

The following are the steps necessary for preparing and processing an EIR within the City of Wildomar. A complete discussion of the EIR process is contained in Section 15080 et seq. of the CEQA Guidelines.

Section 7.4.1 – Notice of Preparation (NOP)

A Notice of Preparation (Appendix I of CEQA) is prepared and sent by certified mail to the State Clearinghouse, all Responsible Agencies, Trustee Agencies, the Riverside County Clerk and other interested agencies for their review and comment, including those agencies/persons identified on the City's local distribution list. The agencies have 30 days to respond to the NOP. The purpose of the NOP is to notify the various agencies and interested persons about the proposed project, solicit their comments on the scope and content of the EIR, and to foster interagency coordination and cooperation.

In addition to the above, an electronic copy of the NOP will be made available for public review on the City's Environmental Documents webpage at the following web address (<http://www.cityofwildomar.org/environmental-documents.asp>). A hard copy of the NOP will also be made available at the Planning Department zoning counter for public review.

Section 7.4.2 – Scoping

The scope of the EIR is determined using one or more of the following sources: Initial Studies, previous environmental documents, responses to the NOP, consultation with other agencies. Further, the Planning Director, at his/her discretion may conduct a

public scoping meeting during the 30-day NOP review period to solicit comments from the general public on the scope of the EIR.

Section 7.4.3 – Use of Consultants

The City maintains a list of qualified consultants to prepare EIRs. The Planning Director shall select a consultant to prepare the EIR for a project, and may consult with the applicant in making the selection. The applicant for a private development project is responsible for the full cost of the preparation of an EIR for the project plus the City staff, contract staff, consultant and attorney costs of review and management of the consultant. At the request of the applicant, the City may also use the Request for Proposal (RFP) process to obtain additional proposals from firms not on the list of qualified consultants.

Section 7.4.4 – Draft EIR

The Draft EIR is prepared by the City's consultant and contains the required items pursuant to Section 15120 et seq. of the CEQA Guidelines.

Section 7.4.5 – Public Review of Draft EIR

Public review of the Draft EIR shall generally follow the procedures outlined in below:

1. A Notice of Completion form (Appendix C of CEQA) shall be prepared and filed with the State Clearinghouse and shall include the Draft EIR (and all applicable technical appendices) with the distribution.
2. A Notice of Availability form shall be prepared and filed with the Riverside County Clerk prior to releasing the Draft EIR for public review.
3. A Notice of Availability shall be published one time in the Press Enterprise, or similar local newspaper of general circulation, prior to releasing the Draft EIR for public review.
4. A hard copy of the Draft EIR shall be made available for public review at the Wildomar Planning Department. Copies of the technical appendices will be made available for review in the form of a CD. The City will make a hard copy of any technical appendices available for review upon request if the City holds the requested appendices in hard copy format.
5. An electronic copy of the Draft EIR (with technical appendices) shall be made available for public review on the City's Environmental Documents webpage/web address (<http://www.cityofwildomar.org/environmental-documents.asp>).

6. A copy of the Draft EIR (with technical appendices) shall be provided to the Applicant.
7. A copy of the Draft EIR (with technical appendices on a CD) shall be made available for public review to any interested person(s) requesting review of the Draft EIR, as well as those persons/agencies identified on the City's local distribution list. Persons requesting a hard copy of the EIR and/or technical appendices must pay for the City's copying costs.
8. The public review period for a Draft EIR is 45 days unless a shorter period of not less than 30 days is approved by the State Clearinghouse.

Section 7.4.6 – Final EIR

Comments received on the Draft EIR during the public review period shall be incorporated into a Final EIR. The Final EIR includes an errata sheet with any revisions to the Draft EIR, all comment letters received during the public review period for the Draft EIR, the City's responses to all comments received on the Draft EIR during the public review period, and a list of all commentators on the Draft EIR.

Section 7.4.8 – Certification of the Final EIR & Project Approval

Certification of the Final EIR shall generally follow the procedures outlined in below:

1. Certification. Prior to approving a project, the decision-making body must first certify that the Final EIR was prepared in compliance with CEQA, that the Final EIR was presented to the decision-making body, which reviewed and considered the Final EIR before approving the project, and that the Final EIR reflects the City's independent judgment and analysis.

The decision-making body that certifies the Final EIR may either be the Planning Commission or City Council, depending on the type of project. In some cases, the Planning Commission is the advisory body and recommends certification to the City Council.

2. Findings. In accordance with Section 15091 of the CEQA Guidelines, the City shall not approve, or carry out a project, for which an EIR was prepared and certified which has one or more significant impacts unless the City makes one or more of the following findings:
 - a). Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental impacts as identified in the Final EIR;

- b). Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City. Such changes have been adopted by such other agency or can and should be adopted by other such agency; and/or
- c). Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. If this finding is made, a Statement of Overriding Considerations must be adopted.

When making these findings, the City must also specify the location and custodian of the documents or other materials that constitute the record of the proceedings upon which its decision is based.

- 3. Statement of Overriding Considerations. In accordance with Section 15093 of the CEQA Guidelines, if the City approves a project with unavoidable significant environmental impacts, it must approve a written Statement of Overriding Considerations prior to approval of the project. The Statement of Overriding Considerations must set forth substantial evidence of the specific economic, legal, social, technological or other benefits supporting the City's decision to approve the project. If the economic, legal, social, technological or other benefits outweigh the unavoidable adverse environmental effects, those unavoidable effects may be considered acceptable.
- 4. If the decision-making body cannot find that the Final EIR was prepared in accordance with CEQA and the CEQA Guidelines, the Final EIR shall be referred back to the Planning Director for revisions to the document to bring it into conformance with CEQA and the CEQA Guidelines. This may require recirculation of a revised Draft EIR.
- 5. The Final EIR must be certified prior to the decision-making body approving a project.
- 6. A Mitigation Monitoring and Reporting Program (MMRP) shall be adopted along with the CEQA Findings of Fact and any Statement of Overriding Considerations. The City's Mitigation Monitoring and Reporting procedures are contained in Section 8 of these Local CEQA Guidelines and Procedures.

Section 7.4.9 – Notice of Determination

Within five working days after the decision-making body approves a project which a Final EIR was certified, the Planning Director shall file a Notice of Determination with the State Office of Planning and Research (State Clearinghouse). In addition, the Planning Director shall file a Notice of Determination with the Riverside County Clerk, including the County's Administration fee and applicable Fish and Wildlife fee. The

complete Notice of Determination paperwork for a Final EIR shall be consistent with Appendix D of the CEQA Guidelines.

Section 7.5 – Standards for Adequacy

An EIR should be prepared with a sufficient degree of analysis to provide the decision-makers with information that enables them to make a decision that takes into account the environmental consequences of a project. The evaluation of the environmental impacts of a project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure. (Reference Section 15151 of the CEQA Guidelines).

SECTION 8 – MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Section 21081.6 of CEQA, all jurisdictions must have a method for monitoring compliance and implementation of adopted mitigation measures.

Section 8.1 – Mitigation Monitoring Procedures

The following mitigation monitoring procedures shall be followed for all projects that require mitigation monitoring and compliance.

Section 8.1.1 – Development of Checklist

After a project is approved with mitigation measures identified through a Mitigated Negative Declaration or EIR, these mitigation measures shall be incorporated into the Mitigation Monitoring Report matrix. Each mitigation measure must be clearly identified separately in the monitoring report matrix, with appropriate spaces for monitoring the progress of each mitigation measure as it is implemented. The matrix is the basis for the monitoring program.

Section 8.1.2 – Monitoring Program

In most cases, mitigation measures can be monitored through the City's existing Zoning Clearance process such as when the applicant submits grading and building plans for City review. The City will review submitted plans and will document compliance or non-compliance for each mitigation measure on the checklist on the MMRP. However, in some cases mitigation monitoring does not coincide with the Zoning Clearance process and/or may require technical expertise requiring the City to retain a consultant to monitor or confirm compliance.

Mitigation measures are broken down into two types: project specific and cumulative. The project specific impacts are further broken down into project design and ongoing mitigation measures. Each type of mitigation measure requires different monitoring techniques.

1. **Project Design Mitigation Measure (Project Specific)**

A project design mitigation measure is one that is to be incorporated into the project design to mitigate an impact, such as a storm water basin, construction of a noise wall, or road improvements. These mitigation measures will normally be shown on the building and/or grading plans. The plans will be reviewed for each specific mitigation measure, and as each mitigation measure is shown on the plans, the City will sign the checklist in the "Shown on Plans" space. If a mitigation measure is not shown on the plans, the plans are sent back for correction with the deficiency noted. Plans will not be approved by the City until each mitigation measure has been incorporated into the project design. After the plans receive Zoning Clearance, and before the final inspection of the project, the applicant shall submit proof that each Project Design Mitigation Measure has been installed or completed. Verification of completion will be

noted on the monitoring checklist and signed off. This completes the process for Project Design Mitigation Measures.

2. Ongoing Mitigation Measure (Project Specific)

An ongoing mitigation measure is one that is associated with the project over a period of time, such as dust control during construction or landscape maintenance. Monitoring of this type of mitigation measure is similar to that of Project Design Mitigation Measures as noted above, except that the status of each mitigation measure will be noted at various times over the life of the project until no longer required. An example would be maintaining dust control until the project is completed. The applicant may be required to submit periodic reports on the status of these types of mitigation measures.

3. Cumulative Mitigation Measure

Cumulative mitigation measures, such as road improvements when future projects are developed, will be monitored in the same manner as project specific mitigation measures as noted above, except that cumulative mitigation measures will be noted as cumulative on the checklist, and will usually be monitored over a longer period of time.

Section 8.1.3 – Outside Consultants

An outside consultant may be hired in the few cases where a mitigation measure cannot be verified through the Zoning Clearance process, or if the monitoring requires specialized expertise. An example would be the monitoring of biological impacts requiring an on-site biologist. The City will hire the consultant and may collect a deposit from the applicant to cover the cost of the outside consultant.

Section 8.1.4 – Other Agencies

It is the responsibility of other agencies to monitor mitigation measures requested by these other agencies. The City shall notify these agencies of their mitigation monitoring requirements. These agencies must submit a proposed mitigation monitoring program to the City. These agencies shall inform the City in writing when each of their mitigation measures has been completed.

Section 8.1.5 – Completed Monitoring Checklist

Mitigation monitoring checklists are retained in the project case file, and are available for public review upon request.

Section 8.2 – Monitoring Fees

Section 8.2.1 – Processing Fees

The City may charge and collect from the applicant a fee in the amount of the actual costs to the City for monitoring all mitigation measures of a project. A deposit may be

required to be applied towards this fee. Any unused portion of the deposit will be refunded.

Section 8.2.2 – Consultant Fees

The cost associated with the use of an outside consultant shall be paid for by the applicant. A deposit may be required by the City to be applied towards the consultant services. Any unused portion of the deposit will be refunded.

SECTION 9 – DELAY OF PERMITS AND INSPECTION OF DOCUMENTS

Section 9.1 – Delay of Permits

The issuance of any City permit or entitlement shall be withheld during the pendency of a related administrative appeal or during the time period within which a related administrative appeal may be perfected.

After the conclusion of an administrative appeal, the City may issue permits consistent with the Wildomar Municipal Code, regardless of whether litigation follows the appeal. If the applicant seeks permits during the pendency of litigation, the applicant shall assume the risk of moving forward with the project during the litigation and provide the City with assurances and security acceptable to the City Attorney to protect the City from any liability for the project.

Section 9.2 – Inspection of Documents

The Planning Director shall make all non-exempt environmental documents and supporting materials available for public inspection following a request pursuant to the California Public Records Act and other applicable provisions of state law.

SECTION 10 – PROCEDURES FOR THE CITY AS A RESPONSIBLE AGENCY

This Section identifies the duties of the City when acting as a Responsible Agency under the provisions of Section 15096 of the CEQA Guidelines.

Section 10.1 – Response to Consultation

The Planning Director may respond in writing to consultation requests by a Lead Agency according to Section 15096(b) of the CEQA Guidelines. The Planning Director may attend meetings requested by the Lead Agency as provided in Section 15096(c) of the CEQA Guidelines.

Section 10.2 – Comments on Environmental Documents

The Planning Director may review and comment on environmental documents as provided in Section 15096 of the CEQA Guidelines. If the environmental document is for a controversial project or has policy implications for the City, the Planning Director may bring the environmental document to the Planning Commission and/or City Council for review and direction. Copies of City comments on the environmental document to the Lead Agency shall be copied to the City Manager and members of the City Council.

SECTION 11 – APPEALS

All final CEQA determinations by a decision-making body may be appealed, including without limitation:

- A. A determination that an activity is not a project subject to CEQA.
- B. A determination that a project is Categorical Exempt, Statutorily Exempt, or ministerial.
- C. The certification of a Final EIR, Subsequent EIR, or Supplemental EIR.
- D. The approval of a Negative Declaration, Mitigated Negative Declaration, Subsequent ND or MND, or Addendum.
- E. A determination that additional environmental review (e.g. a Subsequent or Supplemental EIR, a Subsequent ND or MND, or an Addendum) is not required for a project.

Final CEQA determinations by a decision-making body may be appealed in the same manner as the related project approvals may be appealed. Appeal procedures for related project approvals are found in the Wildomar Municipal Code.