

INDIAN WELLS CITY COUNCIL

June 20, 2024



To: City Council
From: Community Development Department
Prepared by: Jon Berg, Community Development Director
Subject: **Annual Update to Local California Environmental Quality Act (CEQA) Guidelines**

RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution updating local guidelines for implementing the California Environmental Quality Act; and

FINDS the action is not a project under State CEQA Guidelines section 15378(b)(5).

BACKGROUND:

The California Environmental Quality Act ("CEQA"), codified at Public Resources Code section 21000, et seq., is California's most comprehensive environmental law. It generally requires public agencies to evaluate the environmental effects of their actions before they are taken. CEQA also aims to prevent significant environmental effects from occurring as a result of agency actions by requiring agencies to avoid or reduce, when feasible, the significant environmental impacts of their decisions.

To this end, State CEQA Guidelines require local agencies to adopt "objectives, criteria and procedures" to implement the requirements of CEQA and the State CEQA Guidelines. (State CEQA Guidelines [14 Cal. Code Regs.] section 15022.) The 2024 Local Guidelines for Implementing the California Environmental Quality Act for the City of Indian Wells reflect recent changes to CEQA.

DISCUSSION:

The City of Indian Wells has prepared a proposed updated set of Local CEQA Guidelines for 2024 which reflect recent changes to CEQA. These Local CEQA Guidelines also provide instructions and forms for preparing all environmental documents required under CEQA.

CEQA is California's comprehensive environmental law, contained in Public Resources Code sections 21000 et seq. CEQA seeks to protect the environment by requiring

government agencies within the state to analyze and publicly disclose impacts of proposed projects, and adopt feasible mitigating measures to reduce those impacts. Annually, the City Attorney's Office prepares a memorandum outlining needed changes to the Local CEQA Guidelines (Attachment #1) and a Resolution adopting the updates (Attachment #2).

The City of Indian Wells Local CEQA Guidelines were revised and amended to reflect recent changes to the State CEQA Guidelines, the Public Resources Code and relevant court opinions. A summary of the updates follows (refer to Attachment #1 for a comprehensive review):

- A new amendment has created a requisite specifically regarding "Notices of Determination & Notices of Exemption". Public Resources Code section 21152 has been amended to require a local agency to file a Notice of Determination ("NOD") with both the County Clerk and the State Clearinghouse in the Office of Planning and Research ("OPR") within five (5) working days of the agency approving a project subject to CEQA. The Legislature further amended Section 21152 to provide that when a local agency files a Notice of Exemption ("NOE"), the agency should file the NOE with both the County Clerk and the State Clearinghouse.
- An exemption has been prescribed for a responsible agency's provision of financial assistance for the development of affordable housing. Therefore, Public Resources Code section 21080.10(b) has been amended to exempt action taken by a local agency not acting as the lead agency to provide financial assistance or insurance for the development and construction of residential housing for persons and families of low or moderate-income if the project at issue will be reviewed pursuant to CEQA by another public agency.
- A legislative exemption has been included for specified affordable housing projects. The Legislature has added Section 21080.40 to the Public Resources Code, which includes a new statutory exemption under CEQA for affordable housing projects that meet the section's specified requirements. The section exempts from CEQA certain actions taken by lead agencies relating to 100 percent affordable housing projects (as defined), including (i) the issuance of an entitlement by a public agency for an affordable housing project, (ii) an action to lease, convey, or encumber land owned by a public agency for an affordable housing project, (iii) an action to facilitate the lease, conveyance, or encumbrance of land owned or to be purchased by a public agency for an affordable housing project; (iv) rezoning, specific plan amendments, or general plan amendments required specifically and exclusively to allow the construction of an affordable housing project, or (v) an action to provide financial assistance in furtherance of implementing an affordable housing project.

- Through legislation there is now an exemption for housing developments on land that is owned by institutions of higher education and religious institutions. The Legislature has added Section 65913.16 to the Government Code, which provides for the ministerial approval of a “housing development project” (meeting specified requirements) located on land owned on or before January 1, 2024 by an independent institution of higher education or a religious institution.
- An amendment provision has been made to administrative records within the Public Resources Code section 21167.6. This amendment provides public agencies with increased control over preparation of the administrative record during litigation. A public agency may now deny a petitioner’s request to prepare the administrative record, provided that it issues the denial within five (5) business days of receiving the petitioner’s request to prepare the administrative record. This amendment has further been modified to clarify that an administrative record need to include (1) communication and emails of a logistical nature, such as a meeting invitation or scheduling communications; or (2) documents subject to a privilege or exemption set forth in the California Public Records Act.
- Recent updates that became effective as of January 1, 2024, impose a fee increase to the Department of Fish and Wildlife rates. Additionally, the new filing fee is \$2,916.75 for a Negative Declaration or a Mitigated Negative Declaration. The new filing fee for an EIR fee is now \$4,051.25. Lastly, the filing fee for an environmental document prepared pursuant to a Certified Regulatory Program has been increased to \$1,377.25.

FISCAL IMPACT:

No fiscal impact is anticipated from amending the Local CEQA Guidelines.

CEQA:

No environmental impact is anticipated from amending the Local CEQA Guidelines. The City of Indian Wells adoption of the attached Resolution is not a project under State CEQA Guidelines section 15378(b)(5) because it involves an administrative activity and would not result in any environmental impacts.

ATTACHMENTS:

1. BB&K Memorandum
2. Resolution