



***CITY OF BAKERSFIELD***

***CEQA  
IMPLEMENTATION  
PROCEDURES***

*November 18, 1998*

## **I. INTRODUCTION**

### **A. PURPOSE OF CITY PROCEDURES**

The City of Bakersfield's procedures for environmental review set forth the process for complying with the California Environmental Quality Act (CEQA). Their purpose is to protect both local and regional environmental resources in a manner that reflects local values. They convey criteria for determining if CEQA applies to particular projects, and methods for conducting environmental review of projects that are not exempt. The intent is to translate a myriad of state laws and judicial interpretations into a concise guide for use by City officials, residents, project proponents, and City staff.

Bakersfield's CEQA Implementation Procedures summarize state law. Please refer to the state CEQA Guidelines contained in the California Code of Regulations for more detail. To assist the user with these procedures, citations to these regulations are sometimes shown in parentheses. If there is any conflict between the City's procedures and state law, state law will prevail.

### **B. BASIC PURPOSES OF CEQA (§ 15002)**

The basic purposes of CEQA are to: (1) inform governmental decision makers and the public about the environmental effects of proposed activities; (2) identify ways that damage to the environment can be avoided or significantly reduced; (3) prevent environmental damage by requiring changes in projects through the use of alternatives or mitigation measures; and (4) disclose to the public the reasons why a project is approved if significant environmental impacts are involved.

## **II. OVERVIEW AND SUMMARY OF PROCEDURES**

### **A. CEQA APPLICABILITY**

A proposal must first be evaluated to determine if it is a "project" and is, therefore, subject to further CEQA review. A project is defined as any discretionary action that may cause a physical change to the environment (see page 4). However, if the proposed activity is a project under CEQA, it may still be exempt from environmental review.

### **B. EXEMPTIONS**

Generally, there are two types of exemptions, statutory and categorical. Statutory exemptions apply to projects that the state legislature has determined will not have a significant effect on the environment. Statutory exemptions are ministerial projects and emergency projects. Other statutory exemptions are

listed in Appendix B. Categorical exemptions apply to certain classes of projects that the Secretary of Resources has determined will not cause significant effects to the environment. These exemptions include fences, signs, landscaping, and other projects that the city has determined, in compliance with state law, are exempt (see Appendix B). After approving an exempt project, the City may file a Notice of Exemption with the County Clerk.

### **C. INITIAL STUDIES, NEGATIVE DECLARATIONS, AND EIRS**

If the proposed activity is a project under CEQA, and is not exempt from review, the Planning Director or his/her designee will prepare an initial study. The initial study determines whether a negative declaration or an environmental impact report (EIR) is needed. Information for the initial study is derived from the environmental information submitted by the applicant and other reference material available to the Planning Director. If the initial study identifies significant impacts, staff will draft mitigation measures and include them as part of the project. Mitigation measures reduce the impacts the project will cause to the environment. These measures are a result of consideration, by staff after receiving recommendations from the applicant, from members of the public, and from private and public entities. If no significant impact is identified, or if mitigation measures have been drafted and included in the project for all impacts, the initial study shall conclude that there is no significant environmental impact and a negative declaration is in order.

If a significant impact is identified that has not been, or cannot be adequately mitigated, the initial study shall conclude that the project has significant environmental effects and an EIR will be required.

### **III. AUTHORITY PROVIDED BY CEQA (§ 15040)**

The City applies CEQA during the development review process to mitigate or avoid significant effects on the environment. CEQA gives the City the following authority:

#### **A. MITIGATION (§ 15041):**

The City may require changes in any activities involved in the project to lessen or avoid significant effects on the environment.

#### **B. DISAPPROVAL OF PROJECTS (§ 15042):**

The City may disapprove a project if necessary to avoid significant effects on the environment that would occur if the project were approved.

**C. APPROVAL OF PROJECTS DESPITE SIGNIFICANT EFFECTS (§ 15043):**

The City may approve a project, even though it may cause a significant adverse effect on the environment, if the City makes a fully informed and publicly disclosed decision that there is no feasible way to lessen or avoid the effect. In doing so, the city will identify expected benefits from the project that outweigh the adverse impacts or the costs of mitigating the impacts of the project. This is called a statement of overriding considerations.

**D. COMMENTS (§ 15044):**

The City may submit comments to a lead agency concerning environmental effects which may be caused by a project.

**E. FEES (§ 15045):**

The City, as a lead agency, may charge and collect reasonable fees in order to recover the estimated costs of preparing environmental documents.

**IV. APPLICABILITY OF CEQA (§ 15002)****A. GOVERNMENT ACTION:**

CEQA applies to "discretionary" government action. This may involve activities directly undertaken by the City, activities financed in whole or part by the City, or private activities that require approval by the City.

**B. TIME OF COMPLIANCE:**

The City will comply with CEQA procedures as set forth in these procedures whenever the City proposes to carry out or approve an activity. CEQA review, preparation, and certification of appropriate documentation occurs prior to granting an approval of private projects or authorization of public projects. EIRs and negative declarations should be prepared as early as possible in the planning process to enable environmental considerations to influence project program and design, yet late enough to provide meaningful information for environmental assessment.

**C. DISCRETIONARY AND MINISTERIAL ACTIONS:**

CEQA applies in situations where the City uses its judgment in deciding how, and if, a project is approved. Such projects are called "discretionary". A discretionary decision requires the exercise of judgment in deciding whether to approve or disapprove a particular activity. Discretionary projects may include rezonings, conditional use permits, general plan amendments, site plan, etc.

"Ministerial" describes a governmental decision involving little or no personal judgment by City officials as to the wisdom or manner of carrying out a project. These projects are not subject to CEQA review. For example, the issuance of building permits, business licenses, and final subdivision maps are ministerial items, (see Appendix B).

#### **D. PROJECT (§ 15378):**

A project is defined as the whole of an action, that might result in a physical change to the environment, directly or ultimately, and is:

1. An activity directly undertaken by the City including, but not limited to, public works projects, clearing or grading of land, improvements to existing public buildings, enactment or amendment of zoning ordinances, and adoption or amendment of the general plan;
2. An activity undertaken by a person which is supported in whole or in part through City contracts, grants, subsidies, loans, or other forms of assistance; or
3. An activity involving the discretionary issuance to a person of a lease, permit, license, certificate, or other entitlement granted by one or more public agencies.

#### **E. RESPONSIBILITY FOR COMPLIANCE:**

The Planning Director is the CEQA coordinator for the City and shall ensure that these procedures are followed for all projects, both public and private approved by the City. These procedures apply to all agencies of the City.

#### **F. APPROVING AUTHORITY, LEAD AGENCIES, RESPONSIBLE AGENCIES, TRUSTEE AGENCIES:**

The "approving authority" as used herein is that person or public body that takes the action to certify an EIR, adopt a negative declaration or take any other action as shown in Appendix A.

A "lead agency" is the public agency that has the principal responsibility for carrying out or approving a project. The lead agency drafts the initial study and decides whether an EIR or negative declaration will be required (§15051).

A "responsible agency" is any public agency, other than the lead agency, that has discretionary approval power over the project. For example, street improvements for a given project may require Caltrans review and approval, in which case Caltrans would be a responsible agency.

A "trustee agency" is a state agency that controls natural resources held in trust for the people of California, and which may be affected by a proposed activity. For example, the California Department of Fish and Game is a trustee agency with regard to fish and wildlife resources.

## V. DETAILED ENVIRONMENTAL REVIEW PROCEDURES

### A. INITIAL PROJECT REVIEW

Activities that are initiated by the City, funded in whole or part by the City, or require authorization or entitlement from the City may be subject to CEQA review. City staff, with primary responsibility for processing, reviewing, or authorizing activities affecting the environment should be sufficiently familiar with these procedures to notify the Planning Director to begin the CEQA review along with the project review and processing. Most activities that are not exempt from CEQA will be reviewed or processed by the Public Works Department or the Development Services Department. Questions regarding whether and how CEQA applies to the operations of any department should be directed to the Planning Director and/or the City Attorney.

### B. REVIEW FOR EXEMPTION

All proposals or activities must be reviewed to determine if one of the following exemptions is appropriate:

1. **Not a Project under CEQA:** If a proposed activity is not a project, as defined on page 4, it is exempt from CEQA review.
2. **Statutory Exemptions:** Certain activities have been exempted from CEQA by the legislature. These exemptions include feasibility or planning studies, ministerial projects, and emergency actions. A list of statutory exemptions is provided in § 15200, et seq. and in Appendix B.
3. **Categorical Exemptions:** Certain classes or "categories" of projects have been determined by the state's Secretary of Resources to have an insignificant effect on the environment, and are known as categorical exemptions. Currently, the state's CEQA Guidelines recognize 29 classes of categorically exempt projects. A list of exemptions found by the City of Bakersfield to be consistent with those listed in the state guidelines is included in Appendix B.
4. **General Rule (§ 15061):** 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.

### C. NOTICE OF EXEMPTION (§ 15062)

If a determination is made that the activity is exempt from CEQA, and the City approves or determines to carry out the project, a Notice of Exemption may be filed with the County Clerk. This notice may be filed either by the Planning Director or his/her designee, or the project sponsor. The notice shall include a project description, the location, a finding that the project is exempt including its exemption type, and a brief statement of reasons to support the finding. Filing a Notice of Exemption initiates a 35-day statute of limitations on legal challenges to the City's determination that the project is exempt. If the notice is not filed, a 180-day statute of limitations will apply.

### D. INITIAL STUDY AND DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE (§ 15063)

1. **Purposes of an Initial Study:** An initial study is a preliminary analysis prepared by the Lead Agency to determine whether to prepare an EIR or a negative declaration.
2. **Project Information Required:** A primary source of project information for the initial study is the environmental information submitted by the applicant and received as part of the project application. The Planning Director may take up to 30 days to review the submittal and determine if it is complete. Once this decision is made the applicant may be notified by mail. If the application is deemed incomplete, the project sponsor will be notified as to what additional materials are necessary to complete the application. Failure to provide information will delay the project, and may unnecessarily result in findings of significant environmental effects. Projects shall not be deemed received for filing until an application requesting approval for the project is accepted as complete by the Planning Director except as provided under § 15111 of the state CEQA Guidelines.
3. **Preparation and Content of Initial Studies:** The initial study is normally prepared by the Planning Director or his/her designee. It includes the project description, environmental setting, environmental checklist, discussion of any impacts, and if necessary, mitigation measures and the mitigation monitoring program. Discussion statements should explain both yes and no responses to each question or category of questions on the checklist (e.g. earth, air, etc.). Complex projects may require the preparation of special studies.

All phases of project planning, implementation, and operation must be considered in the initial study. Staff should consult with other City departments, outside public entities that may be a responsible or trustee agency for the project, and any individuals or organizations otherwise concerned.

4. **Determining Environmental Significance:** A significant effect on the environment is any substantial adverse change in the physical conditions that exist around the proposed project. Current conditions means the contemporaneous physical conditions rather than hypothetical conditions reflecting buildout under existing land use entitlements or maximum operations under an existing permit. If there has been made a fair argument, based on scientific and factual evidence, that a project will have a significant effect, and the effect cannot be mitigated below a level of significance or avoided, an EIR must be prepared.

In determining significant effects, the Planning Director shall consider examples deemed to be a significant effect on the environment as identified in the Appendix of the state CEQA Guidelines, the mandatory findings of significance within Section 15065, the considerations within Section 15064, and the definition of "significant effect on the environment" within Section 15382.

5. **Time Limits:** For private projects, the Planning Director or his/her designee will prepare or cause to be prepared an initial study within 30 days of deeming the application complete, or 45 days if both the applicant and the Planning Director agree to a 15-day extension (for public projects, these time limits do not apply). The initial study will determine if the Planning Director recommends adopting a negative declaration or if the project requires an EIR.

## E. PREPARATION OF NEGATIVE DECLARATIONS

1. **When to Prepare a Negative Declaration (§ 15070):** A negative declaration shall be prepared for non-exempt projects when the initial study shows that there is no substantial evidence of the project having a significant effect on the environment; or when the proposed project could have a significant effect on the environment, but will not in this case, because mitigation measures have been added to the project.
2. **Formulation of Mitigation Measures (§ 15370):** If there is a potential for significant impacts, effort should be made to identify and incorporate mitigation measures into the project design prior to completion of the initial study. If identified impacts can be mitigated to a nonsignificant level, the time and expense associated with preparation of an EIR can be avoided. Every known potential impact must be reduced in this fashion, or an EIR is required. Creativity, reasonableness, and practicality should be used in developing mitigation measures for identified impacts.
3. **Contents of Negative Declarations (§ 15071):** A negative declaration consists of a brief description of the project, including its commonly used name, the applicant's name, a location map, the initial study, the completed

environmental checklist, the environmental setting discussion and draft mitigation monitoring plan, if mitigation is identified. It also includes a summary of the conclusions reached to support findings that the project will not have a significant impact on the environment.

4. **Time Limits:** The negative declaration must be completed and adopted within 180 days from the date that an application for a private project is deemed complete. Any unreasonable delays resulting from failure of the applicant to provide information requested by the Planning Director and necessary to complete the negative declaration shall suspend these time limits.
5. **Public Notice and Review:**
  - a. The notice for public review and notice of intent to approve a negative declaration or mitigated negative declaration, and the notice of public hearing on the negative declaration or mitigated negative declaration may be combined, but shall not be less than the review period specified in Public Resources Code § 21091, and shall be given in the following manner:
    - (1) Mailed or delivered to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.
    - (2) Mailed or delivered to each local agency (if not the City) expected to provide water, sewerage, streets, roads, schools or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.
    - (3) Mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within three hundred feet of real property that is the subject of the hearing. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or subsection a. (1) is greater than one thousand, in-lieu of mailed or delivered notice, notice may be provided by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City. Notice of hearing upon each application for a conditional use permit to allow drilling for and production of petroleum pursuant to Bakersfield Municipal Code Chapter 15.66 shall be mailed to such owners of all property within one thousand feet of the property line containing the well site.
    - (4) Notice shall be published in at least one newspaper of general circulation within the City.

- (5) This notice may also be consolidated with the notice of other land use actions (ie. zone change, conditional use permit, site plan) if such actions are being considered.
    - (6) Public notice shall be provided to responsible and other agencies who have commented regarding a particular negative declaration, or those agencies and/or individuals who have specifically requested a copy of such notice in writing.
  - b. Comments received during the consultation and review period for the negative declaration which raise significant environmental issues shall be responded to by the Planning Director with all comments received and any responses prepared being forwarded to the approving authority prior to adoption of the negative declaration. The Planning Director and/or approving authority may decide based on any new information provided that additional mitigation or preparation of an EIR is necessary at any time during this process; however, if any new information significantly modifies the project, mitigation or other conclusions regarding the negative declaration, additional public review pursuant to subsection a. above, shall be given.
6. **Consideration and Approval of Negative Declarations:** Prior to project approval, the approving authority shall consider the proposed negative declaration with any comments received during the review process and any comments from an advisory body. The approving authority shall approve the negative declaration if it finds on the basis of the initial study, and comments received, that there is no substantial evidence of potential significant effects on the environment. Negative declarations shall be reviewed and approved by the approving authority shown in Appendix A.
7. **Notice of Determination (§ 15075):** After the negative declaration has been approved, the Planning Director or his/her designee shall file a Notice of Determination with the County Clerk. This notice shall be filed and posted within five (5) working days following project approval. If the project requires a discretionary approval from any state agency, the notice shall also be filed with the Governor's Office of Planning and Research. Filing and posting the Notice of Determination starts a 30-day statute of limitations on court challenges to CEQA approvals. Failing to file the Notice of Determination within the required time period extends the statute of limitations to 180 days.

## F. PREPARATION OF ENVIRONMENTAL IMPACT REPORTS (EIRs)

1. **Decision to Prepare an EIR:** If the initial study determines that a project may have a significant effect on the environment which cannot be eliminated by changing the project or adding mitigation measures, the City must initiate the preparation of an EIR. The Planning Director will determine whether an EIR is required within 30 days of deeming the application complete. A 15 day extension may be approved upon consent of the applicant and the Planning Director.
2. **Notification of Project Proponent and Payment of Fees:** The Planning Director or his/her designee shall notify the applicant by letter that an EIR is required. The applicant must then authorize the Planning Director to continue processing the application and remit the required fee as determined in accordance with the fee schedule adopted by the City Council.
3. **Notice of Preparation (§ 15082):** After determining that an EIR is required and receiving payment of fees from the applicant, the Planning Director or his/her designee shall prepare and distribute a Notice of Preparation of an EIR as required by § 15082.
4. **Scope of an EIR (§ 15082 & 15083):** The breadth of analysis in the EIR shall be determined by the initial study and responses to the Notice of Preparation. In addition, the City may hold scoping meetings with responsible and trustee agencies, and any person or organization it believes will be concerned with the environmental effects of the project. The EIR should focus on potentially significant impacts, and need not discuss items determined to be insignificant by the initial study, or items not raised in response to the Notice of Preparation and from scoping meetings.
5. **Types of EIRs (§ 15160):** In order to allow environmental review to occur as efficiently as possible, CEQA allows for the preparation of different types of EIRs. The most common type of EIR is a project EIR which examines the environmental impacts of a specific development proposal. This type of EIR focuses on changes to the environment that would result from the project, examining all phases of the project including planning, construction and operation.

A subsequent EIR (§ 15162) may be appropriate if an EIR has already been prepared but there have been:

- a. Changes in the project;
- b. Changes in the circumstances affecting the project (such as environmental deterioration); or

- c. New information of substantial importance that was not previously analyzed.

If the changes are minor with respect to either project characteristics or the environmental circumstances, a supplement to an EIR (§ 15163) or addendum to an EIR (§ 15164) may be appropriate.

Other types of EIRs include program EIRs for multiple or phased projects (§ 15168), general plan EIRs (§ 15166), staged EIRs (§ 15167), master environmental assessments (§ 15169), and joint environmental impact report /environmental impact statements (§ 15170).

6. **Contents of EIRs (§ 15120):** The required contents of EIRs, as set forth in Article 9 of the state CEQA Guidelines, are hereby incorporated by reference. The approving authority may require that economic and/or social information be included in an EIR pursuant to Section 15131.
7. **Private Consultants:** The Planning Director may retain the services of a private consultant to prepare all or a portion of an EIR or negative declaration, or to perform specialized mitigation monitoring. Selection of any consultant to perform such work shall be the responsibility of the Planning Director. The consultant is responsible only to the Development Services Department for performance of and approval of work assigned. Contact between the consultant and applicant shall be limited. Direct contacts by the applicant with the consultant or the consultant with the applicant without prior knowledge and approval of the Planning Director are prohibited.
8. **Execution of Contract:** After the Planning Director has selected a consultant and agreed upon a scope of work, the applicant shall be notified of the cost to prepare the EIR. The cost shall include preparation of the draft EIR, attendance at public hearings, preparation of the response to comments or final EIR, reproduction costs for a specified number of documents, consultant costs (travel, administration, overhead, etc.), and an administrative fee, as set by City Council.

Before beginning work on the report, the applicant must deposit with the City an amount of money that will cover all costs specified above. The City will then execute a contract with the consultant. Prior to executing a contract, all consultants retained by the City shall file a statement of economic interest with the City Clerk; demonstrate possession of liability insurance and statutory workers' compensation coverage acceptable to the City Risk Manager; and secure a business license.

9. **Applicant Agreement:** The Planning Director shall also require the applicant to execute an agreement. The agreement with the applicant shall contain the cost to be paid and project schedule. The applicant shall have 30 days from receipt of the agreement to sign it and pay the department the full cost of the consultant's work. The department shall place the funds into an account for payment to the consultant at intervals outlined in the contract between the City and consultant. The applicant shall also be responsible for any costs associated with the preparation of supplemental, subsequent or other documents required for certification or adoption of environmental documents.
10. **Preparation of Administrative Draft EIR (§ 15084):** The precirculation draft of the EIR is referred to as the administrative draft. This draft is considered a working document to be circulated only among City staff and any responsible agency, if appropriate, and is not available for public review. The purpose of staff review of administrative draft EIRs is to evaluate them for adequacy and accuracy prior to public circulation. Generally, staff review of the administrative draft EIR is concluded within a few weeks, after which comments are provided to the consultant, who prepares the draft EIR.
11. **Notice of Completion of a Draft EIR (§ 15085):** When the draft EIR is completed and ready for public circulation, a Notice of Completion must be filed with the Governor's Office of Planning and Research (OPR);
12. **Public Review of Draft EIRs (§ 15087):**
  - a. The notice of public review of the draft EIR and the notice of public hearing on the draft EIR may be combined and shall be not less than the review period specified in Section 15087, and shall be given in the following manner:
    - (1) Mailed or delivered to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.
    - (2) Mailed or delivered to each local agency (if not the City) expected to provide water, sewerage, streets, roads, schools or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.
    - (3) Mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within three hundred feet of real property that is the subject of the hearing. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or subsection a. (1) is greater than

one thousand, in-lieu of mailed or delivered notice, notice may be provided by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city at least ten days prior to the hearing. Notice of hearing upon each application for a conditional use permit to allow drilling for and production of petroleum pursuant to Bakersfield Municipal Code Chapter 15.66 shall be mailed to such owners of all property within one thousand feet of the property line containing the well site.

- (4) Notice shall be published in at least one newspaper of general circulation within the City.
- b. This notice may also be consolidated with the notice of other land use actions (i.e., zone change, conditional use permit, site plan) if such actions are being considered.
- c. Public notice shall be provided to responsible and other agencies who have commented regarding a particular draft EIR, or those agencies and/or individuals who have specifically requested a copy of such notice.

**13. Public Hearing on Draft EIR:**

- a. The public hearing shall be before the approving authority shown in Appendix A.
- b. There shall be at minimum one public hearing to receive comments on a draft EIR during the public review period.
- c. The public hearing shall be focused on the objectivity and adequacy of the draft EIR in discussing potential impacts upon the environment, ways in which adverse effects might be mitigated, and alternatives to the project consistent with the intent of CEQA.
- d. A minimum of two copies of the draft EIR shall be made available for public review at both the City of Bakersfield Development Services Department and the Kern County Public Library.

**14. Evaluation of Responses to Comments (§ 15088):** After the review period for the draft EIR closes, staff assembles all written comments and transcripts or notes of comments made at the public hearing(s). These comments are reviewed to determine:

- a. Which comments address environmental impacts and mitigation. These comments will be responded to;

- b. Which comments address the merits of the project (as distinguished from environmental impacts of the project) and do not require a response, but should be noted for the record;
- c. Which comments are beyond the scope of environmental review (such as legal interpretations); and
- d. Which comments on impacts are too speculative for evaluation.

Responses shall be provided for all comments unless a response is not appropriate, in which case an explanation will be provided as to why a response is not warranted.

When either significant new information has been added to the draft EIR, or significant modification to the draft EIR has occurred that changes assumptions or conclusions based on comments received during the public review period, the draft EIR shall be recirculated pursuant to CEQA Guideline Section 15088.5 and public hearing pursuant to paragraphs 12 and 13 above.

15. **Preparation of the Final EIR (§ 15089):** The final EIR consists of the draft EIR, comments received, a list of persons and organizations who made comments, and the response to comments document.

Alternatively, the draft EIR may be revised to incorporate responses to comments into the text of the report. If this format is utilized, the final EIR would consist of the revised draft EIR, comments received, a list of persons and organizations who commented, and an indication of where each comment raised is addressed in the revised text.

16. **Certification of the Final EIR and Time Limits:** The approving authority shown in Appendix A shall certify that the final EIR is in compliance with CEQA, was reviewed and considered prior to project approval, and reflects the independent judgment of the City officials making the decision. The City shall certify the final EIR for private projects within one year of accepting the application as complete. Upon consent of the applicant and the Planning Director, the one-year limit may be extended. Delays by the applicant in providing necessary information or fees shall suspend these time periods.
17. **Findings (§ 15091):** The City shall not approve or carry out a project for which an EIR identifies one or more significant environmental effects unless the City makes one or more written findings for each of the significant effects, accompanied by a brief explanation of the rationale for each finding. Findings must be supported by substantial evidence in the record of project review. The possible findings are:

- a. Changes have been required, or incorporated into, the project that avoid or substantially lessen the significant environmental effects as identified in the final EIR. Necessary changes are generally identified after preparing the initial study.
  - b. Changes that would avoid or substantially lessen the significant environmental effects are within the jurisdiction of another public agency or have already been adopted by another agency.
  - c. Specific economic, legal, social, technological, or other considerations render such measures or alternatives infeasible.
18. **Statement of Overriding Considerations:** The approving authority may balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits are found to outweigh the unavoidable adverse environmental effects, the decision-making body shall make a statement of overriding considerations as described in Section 15093, that balances the merit of approving the project despite the environmental damage.
19. **Notice of Determination:** Within five (5) days of project approval, a Notice of Determination shall be filed and posted with the County Clerk and if discretionary approval is required by a state agency the NOD shall also be filed with the Office of Planning and Research. The filing and posting of the Notice of Determination starts a 30-day statute of limitations on court challenges to approval under CEQA. Failure to file this notice within the specified time period, extends the statute of limitations to 180 days.

## VI. APPEALS

Within ten days after approval of a negative declaration or certification of an EIR, any individual may appeal that decision to the body shown in Appendix A as the approving authority to hear the appeal. The appeal must be in writing to the City Clerk accompanied with the appropriate filing fee as required by the City.

## VII. MITIGATION MONITORING

- A. Mitigation measures required as part of an approved negative declaration or certified EIR shall be identified within a mitigation monitoring plan and mitigation monitoring checklist. The plan shall specifically describe each mitigation measure and how it will be implemented. The checklist shall be the basis for the monitoring and reporting program to ensure implementation of each mitigation measure.

1. **Development of Mitigation Monitoring Plan:** For those projects in which mitigation is required, mitigation monitoring shall be identified describing:
  - a. Each specific mitigation measure.
  - b. How mitigation will be implemented.
  - c. Timing of actions necessary for implementation.
  - d. Entity or entities that will undertake required action(s).
  - e. Agency or department responsible for monitoring and reporting that mitigation has been properly implemented as well as taking corrective actions when a measure has not been properly implemented.
2. **Review of Mitigation Monitoring Plan:** Draft plans shall be prepared and reviewed with the proposed environmental document. It is the intent of the City that the public review of a proposed negative declaration or draft EIR also include the draft mitigation monitoring plan.
3. **Approval of Mitigation Monitoring Plan:** Mitigation monitoring plans shall be approved along with the adoption of the negative declaration or certification of the final EIR. Mitigation measures shall either be incorporated into the conditions of project approval or referenced in said conditions so that they may be easily implemented and monitored.
4. **Mitigation Monitoring Checklist:** Mitigation measures shall be summarized in a checklist which will provide the basis for monitoring and reporting implementation of mitigation. In most cases, the implementation will end through approval of a final map or final completion and/or occupancy being granted for the project.

(Note: Each mitigation monitoring plan may vary depending on the type of project and the degree to which implementation shall be satisfied. The mitigation monitoring checklist will serve to standardize reporting as well as summarize how overall implementation is progressing.)

- B. The costs and charges for mitigation monitoring not already included in the normal fees paid shall be estimated for project approval with conditions set forth for payment. If it is necessary to utilize the services of a consultant, contracting and fees shall be paid pursuant to the fee schedule adopted by the City Council.

## APPENDIX A

APPROVING AUTHORITY	RESPONSIBILITY / AUTHORITY
Planning Director	<ul style="list-style-type: none"> <li>☞ Authority to agree to Lead Agency status</li> <li>☞ Coordinate and administer all CEQA procedures for the City</li> <li>☞ Administer/manage preparation of environmental documents (i.e., Exemptions, NDs, EIRs)</li> <li>☞ Approve draft NDs or administrative draft EIRs</li> <li>☞ Comment on the adequacy of a draft ND or EIR prepared by a public agency (other than the City) to that agency requesting comment</li> <li>☞ Recommend to the City Council approval of contracts for consultants regarding the preparation of environmental documents; mitigation monitoring</li> </ul>
Development Services Director	<ul style="list-style-type: none"> <li>☞ Conduct public hearing on ND and draft EIR regarding:               <ul style="list-style-type: none"> <li>• Site Plan Reviews</li> </ul> </li> <li>☞ Approve ND or certify EIR for:               <ul style="list-style-type: none"> <li>• Site Plan Reviews</li> </ul> </li> </ul>
Board of Zoning Adjustment	<ul style="list-style-type: none"> <li>☞ Conduct public hearing on ND and draft EIR regarding:               <ul style="list-style-type: none"> <li>• Modifications</li> <li>• Conditional Use Permits</li> </ul> </li> <li>☞ Approve ND or certify EIR for:               <ul style="list-style-type: none"> <li>• Modifications</li> <li>• Conditional Use Permits</li> </ul> </li> </ul>
Planning Commission	<ul style="list-style-type: none"> <li>☞ Conduct public hearing on ND and draft EIR regarding:               <ul style="list-style-type: none"> <li>• Parcel Map Waivers (if not exempt)</li> <li>• Tentative Tract and Parcel Maps</li> </ul> </li> <li>☞ Conduct public hearing and determine appeals to an approval of a ND or certification of an EIR for:               <ul style="list-style-type: none"> <li>• Site Plan Reviews</li> </ul> </li> <li>☞ Recommend approval of ND or certification of an EIR to the City Council for:               <ul style="list-style-type: none"> <li>• Zone Changes (includes ordinance text amendments if not exempt)</li> <li>• General Plan Amendments</li> </ul> </li> <li>☞ Approve ND or certify EIR for:               <ul style="list-style-type: none"> <li>• Parcel Map Waivers (if not exempt)</li> <li>• Tentative Tract and Parcel Maps</li> </ul> </li> </ul>
Central District Development Agency	<ul style="list-style-type: none"> <li>☞ Conduct public hearing on draft EIR regarding:               <ul style="list-style-type: none"> <li>• Redevelopment Plan adoptions and amendments</li> </ul> </li> <li>☞ Conduct public hearing certification of EIR regarding:               <ul style="list-style-type: none"> <li>• Redevelopment Plan adoptions and amendments</li> </ul> </li> </ul>
City Council	<ul style="list-style-type: none"> <li>☞ Conduct public hearing and determine appeals to an approval of a ND or certification of an EIR for:               <ul style="list-style-type: none"> <li>• Parcel Map Waivers (if not exempt)</li> <li>• Tentative Tract and Parcel Maps</li> <li>• Modifications</li> <li>• Conditional Use Permits</li> <li>• Site Plan Reviews</li> </ul> </li> <li>☞ Authorize and approve contracts regarding the preparation of environmental documents</li> <li>☞ Approve ND or certify EIR for:               <ul style="list-style-type: none"> <li>• General Plan Amendments</li> <li>• Zone Changes (includes ordinance text amendments if not exempt)</li> <li>• Grants, specialized plans, and miscellaneous projects</li> </ul> </li> </ul>

## APPENDIX B

### CEQA EXEMPTIONS

In addition to the exceptions specified in CEQA and the CEQA Guidelines, the following are also found to be exempt:

#### **MINISTERIAL PROJECTS (§ 15268)**

1. Issuance of building permits (includes electrical, plumbing, mechanical, sign and demolition, except demolition of a designated historical building of local significance, or one included in the National Register of Historic Places).
2. Issuance of business licenses.
3. Approval of final maps (subdivision and parcel maps).
4. Approval of individual utility service connections and disconnections.
5. Issuance of trailer park operating permits.
6. Issuance of occupancy permits for residential, commercial and industrial uses.
7. Home occupation permits.
8. Issuance of dog licenses.
9. Family day care homes providing family day care for up to 12 children.
10. Residential care facilities as defined in Section 1502 of the Health and Safety Code of the State of California, housing six or fewer persons.
11. Temporary animal permits.
12. Other actions or activities which are wholly ministerial pursuant to Sections 15268 and 15369.

## CATEGORICAL EXEMPTIONS

{Note: The following actions or activities are found to be consistent with the intent and letter of the list of specific actions or activities which are categorically exempt within Sections 15301 through 15329 (See Section 15300.4).}

1. **Class 1 — Existing Facilities:**

- (A) Construction permits under Chapter 12.16 of the Bakersfield Municipal Code.
- (B) Street use permits under Chapter 12.12 of the Bakersfield Municipal Code.
- (C) Utility pole permits under Chapter 12.12 of the Bakersfield Municipal Code.
- (D) Installation of traffic signals, street lighting and traffic control signs.
- (E) House-moving permits under Chapter 12.12 of the Bakersfield Municipal Code.

2. **Class 3 — New Construction or Conversion of Small Structures:**

Second dwelling units as provided for in Title 17 of the Bakersfield Municipal Code and Section 65852 of the California Government Code.

3. **Class 5 — Minor Alterations in Land Use Limitations:**

- (A) Encroachment permits under chapter 12.20 of the Bakersfield Municipal Code.
- (B) Release of covenants relating to common areas or parking areas.

4. **Class 11— Accessory Structures:**

Signs permitted under any permit procedure provided for in Chapter 17.60 of the Bakersfield Municipal Code.

5. **Class 21 — Enforcement Actions By Regulatory Agencies:**

- (A) Weed abatement under Chapter 8.28 of the Bakersfield Municipal Code.
- (B) Abatement of trash, debris and other property maintenance orders pursuant to Bakersfield Municipal Code Titles 8, 15, 16 and 17.

## APPENDIX C

### SITE PLAN REVIEW CEQA COMPLIANCE MATRIX

SITE PLAN REVIEW PROJECT	NOT A PROJECT	CATEGORICAL	INITIAL STUDY	ENVIRONMENTAL DETERMINATION	COMMENTS
Change of Use	X				Change from a permitted use of one class or type to a permitted use of a different class or type for occupancy of an existing building. May not be subject to SPR process.
Additions to existing buildings or centers (small additions)		X		Notice of Exemption	Small additions as described in CEQA Guidelines Section 15301 Class 1.
Additions to existing buildings or centers (large additions)			X	ND, MND, or EIR	Additions not otherwise exempt and inconsistent with previous approvals.
New Commercial or Industrial Buildings (single tenant — small structures)		X		Notice of Exemption	CEQA Guidelines Section 15303 Class 3.
New Commercial or Industrial Buildings (single tenant — large structures)			X	ND, MND, or EIR	
Shopping Centers			X	ND, MND, or EIR	
Office Centers			X	ND, MND, or EIR	
Industrial Centers			X	ND, MND, or EIR	
Apartments (six units or less)		X		Notice of Exemption	CEQA Guidelines Section 15303 Class 3.
Apartments (more than six units)			X	ND, MND, or EIR	CEQA Guidelines Section 15303 Class 3.
GENERAL NOTE: Some projects may be covered a by previously adopted environmental document.					

ND = Negative Declaration      MND = Mitigated Negative Declaration      EIR = Environmental Impact Report

# APPENDIX D

## RECORD OF REVISIONS

COUNCIL RES. NO.	APPROVAL DATE	NOTES/COMMENTS
23-73	4-2-73	• Initial adoption
13-74	2-11-74	• —
40-74	6-3-74	• Filing Notice of Exemptions
10-75	2-24-75	• —
24-77	3-28-77	• —
39-78	5-3-78	• —
60-80	9-24-80	• —
132-83	11-30-83	• —
107-86	4-16-86	• —
212-92	11-4-92	• Rewrite of procedures/Mitigation monitoring
38-97	3-12-97	• Move Site Plan Review Class "B" projects from Cat. Exempt. Class 5 to Class 3
76-97	5-7-97	• Move Site Plan Review Class "B" projects from Cat. Exempt. Class 3 to Ministerial
68-98	5-6-98	• Adoption of new procedures - update to process and exemptions allowed by CEQA, remove SPR exemption, add Development Services Dir. to authority for SPR process
152-98	11-18-98	• Add CDDA authority regarding redevelopment plan adoption