

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

649



FROM: County Counsel

SUBMITTAL DATE: April 21, 2003

SUBJECT: Resolution No. 2003-138 Repealing the "Rules for Riverside County Implementing the California Environmental Quality Act" and Adopting the State CEQA Guidelines as Implementing Procedures.

RECOMMENDED MOTION: Adopt Resolution No. 2003-138

BACKGROUND: The California Environmental Quality Act ("CEQA") requires that the County adopt procedures to implement CEQA and the State CEQA Guidelines. The County complied with this requirement by adopting the "Rules for Riverside County Implementing the California Environmental Quality Act" ("Rules"). The Rules were last comprehensively amended in 1982. Rather than update the Rules to reflect current law, we are recommending that the Board repeal them and adopt the State CEQA Guidelines instead as the County's implementing procedures. This approach is specifically allowed by CEQA and would obviate the need to process any future amendments. If adopted, this resolution would take effect immediately.

Katherine A. Lind
KATHERINE A. LIND
Deputy County Counsel

C.E.O. RECOMMENDATION:

APPROVE

Lisa Brandt

County Executive Office Signature

Policy
 Policy

Consent
 Consent

Department Recommendation:
Per Executive Office:

Prev. Agn. ref.

Dist.

AGENDA NO.

3 17

2
3 **RESOLUTION NO. 2003-138**

4 **REPEALING THE “RULES FOR RIVERSIDE COUNTY IMPLEMENTING THE**
5 **CALIFORNIA ENVIRONMENTAL QUALITY ACT” AND ADOPTING THE STATE CEQA**
6 **GUIDELINES AS IMPLEMENTING PROCEDURES**

7
8 **WHEREAS**, the California Environmental Quality Act (“CEQA”) (Public Resources Code,
9 §21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et
10 seq.) have been amended from time to time since their adoption; and,

11 **WHEREAS**, Section 21082 of CEQA requires the County to adopt procedures to implement
12 CEQA and the State CEQA Guidelines; and,

13 **WHEREAS**, the County complied with this requirement by adopting the “Rules for Riverside
14 County Implementing the California Environmental Quality Act”; and,

15 **WHEREAS**, the “Rules for Riverside County Implementing the California Environmental Quality
16 Act” were last comprehensively amended in 1982; and,

17 **WHEREAS**, the County desires to have implementing procedures that are entirely consistent with
18 the current provisions and interpretations of CEQA and the State CEQA Guidelines; and,

19 **WHEREAS**, Section 15022 of the State CEQA Guidelines permits the County to adopt the
20 Guidelines as its implementing procedures through incorporation by reference; now, therefore,

21 **BE IT RESOLVED, FOUND, DETERMINED AND ORDERED** by the Board of Supervisors
22 of the County of Riverside, State of California, in regular session assembled on April 29, 2003 that:

23 1. Resolution No. 82-213 adopting the “Rules for Riverside County Implementing the
24 California Environmental Quality Act” and all subsequent resolutions amending the Rules are hereby
25 repealed in their entirety.

26 2. The State CEQA Guidelines adopted by the Secretary of the Resources Agency of the
27 State of California are incorporated by reference herein and hereby adopted as the implementing
28 procedures required by CEQA.

1 3. All future revisions to the State CEQA Guidelines shall hereafter be considered a part of
2 the County's implementing procedures without further action by this Board.

3 4. The State CEQA Guidelines are augmented by the additional implementing procedures set
4 forth in Exhibit "A" which is also incorporated by reference herein.

5 5. This Resolution shall be effective at the time of its adoption.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **SECTION 103.**

2 The functions of the Planning Director described herein are a delegation of responsibilities pursuant to
3 Section 15025 of the State CEQA Guidelines.

4
5 **SECTION 104.**

6 No Project Sponsor shall undertake a project until:

- 7 a. The Planning Director has made a determination that the proposed project is exempt from CEQA
8 and these rules, or
9
10 b. The Planning Director has made a written determination that the proposed project will not have a
11 significant effect on the environment, a Negative Declaration has been completed, and the
12 Negative Declaration has been approved by the appropriate County Officer or body, or
13
14 c. The Planning Director has made a written determination that the proposed project may have a
15 significant effect on the environment, has prepared and recommended certification of the required
16 final EIR, and the final EIR has been considered and certified by the appropriate County Officer or
17 body, or
18
19 d. The Planning Director has made a written determination that the County officer or body involved
20 in approving or supporting the project is not the Lead Agency and the Lead Agency has complied
21 with CEQA and all appropriate State CEQA Guidelines.

22
23 **SECTION 105.**

- 24 a. When an activity is substantially funded or sponsored by the Riverside County Economic
25 Development Agency and is processed by the Managing Director of the Agency, the Managing
26 Director shall perform those functions that would otherwise be performed by the Planning
27 Director, including determining whether the proposed project may have a significant impact on
28 the environment and preparing the required documents prior to submittal of the project to the
approving body for decision.

- 1 b. When an activity is substantially funded or sponsored by the Riverside County Waste
2 Management Department and is processed by the Director of Waste Management, the Director
3 shall perform those functions that would otherwise be performed by the Planning Director,
4 including determining whether the proposed project may have a significant impact on the
5 environment and preparing the required documents prior to submittal of the project to the
6 approving body for decision.
- 7 c. When an Area Drainage Plan is prepared or updated by the Riverside County Flood Control and
8 Water Conservation District and is processed by the General Manager-Chief Engineer, the General
9 Manager-Chief Engineer shall perform those functions that would otherwise be performed by the
10 Planning Director, including determining whether the proposed project may have a significant
11 impact on the environment and preparing the required documents prior to submittal of the project
12 to the approving body for decision.
- 13 d. When an activity is substantially funded or sponsored by the Riverside County Regional Park &
14 Open-Space District or by the Riverside County Parks Department and is processed by the
15 General Manager of the District or the Parks Director, the General Manager or Director shall
16 perform those functions that would otherwise be performed by the Planning Director, including
17 determining whether the proposed project may have a significant impact on the environment and
18 preparing the required documents prior to submittal of the project to the approving body for
19 decision.
20

21 **SECTION 106.**

22 No application for a permit that is subject to CEQA made to a County Officer or body shall be deemed
23 complete, received for filing, or processed, unless and until (1) it is determined that the application is
24 exempt, or (2) all information required by the Planning Director to complete an Initial Study has been
25 received.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DIVISION II

EXEMPTIONS FROM THESE RULES

4 **SECTION 201.**

a. Ministerial projects are exempt from CEQA and these procedures and no environmental documents are required. The following actions shall be conclusively be presumed to be ministerial:

1. Issuance of building permits except those permits specified as subject to CEQA review in County Ordinance No. 457.
2. Issuance of grading permits except those permits specified as subject to CEQA review in County Ordinance No. 457.
3. Approval of final land division maps.
4. Issuance of permits or licenses pursuant to the following County ordinances:
 - Ordinance No. 217 – Peddlers
 - Ordinance No. 340 – Well Drilling
 - Ordinance No. 366 – Public Dances
 - Ordinance No. 451 – Amusement Parks
 - Ordinance No. 455 – Kennels and Dogs
 - Ordinance No. 465 – Public Swimming Pools
 - Ordinance No. 466 – Food Handlers
 - Ordinance No. 470 – Private Street Patrols
 - Ordinance No. 492 – Food Establishments
 - Ordinance No. 493 – Restaurants
 - Ordinance No. 507 – Closing Out and Relocation Sales
 - Ordinance No. 513 – Garbage and Rubbish Collection
 - Ordinance No. 524 – Oversized and Overweight Vehicles
 - Ordinance No. 525 – Backflow Prevention Device Inspectors

1 Ordinance No. 539 – Massage Business and Practice of Massage

2 Ordinance No. 540 – Cesspool Cleaners

3 Ordinance No. 542 – Charitable Solicitations

4 Ordinance No. 546 – Fire Ordinance

5 Ordinance No. 554 – Health Service Fees

6 Ordinance No. 558 – Regulating Bingo Operations

7 Ordinance No. 743 – Sex-Oriented Business

- 8 b. With respect to all other actions, the determination of whether the action is ministerial shall be
9 made on a case-by-case basis based upon analysis of the relevant law and the facts.
10

11 **DIVISION III**
12 **PREPARATION OF INITIAL STUDY**
13

14 **SECTION 301.**

15 An the Initial Study shall be prepared in writing by the Planning Director. The Initial Study shall reflect
16 the specificity of the proposed project.
17

18 **SECTION 302.**

19 No request that an Initial Study be conducted shall be received for filing and accepted as complete
20 unless accompanied by the fee required by County Ordinance No. 671 and such data and other
21 information as is required by the Planning Director in order to prepare the Initial Study.
22
23

24 **DIVISION IV**
25 **APPROVAL OF PROJECTS THAT WILL NOT HAVE**
26 **A SIGNIFICANT EFFECT ON THE ENVIRONMENT**
27
28

1 **SECTION 401.**

2 If the Planning Director finds on the basis of an Initial Study that the proposed project will not have a
3 significant effect on the environment, he or she shall complete a Negative Declaration.

4
5 **SECTION 402.**

- 6 a. Prior to considering approval or denial of the proposed project, the appropriate County officer or
7 body shall determine whether or not the proposed project may have a significant effect on the
8 environment. In making this determination, the Negative Declaration, all written comments
9 received, and oral testimony, if a hearing is required, shall be considered. The appropriate County
10 officer or body shall determine whether or not the proposed project may have a significant effect
11 on the environment or, alternatively, shall return the project to the Planning Director for
12 reevaluation.
- 13 b. If the Planning Director, upon reevaluation, determines that the proposed project may have a
14 significant effect on the environment, an EIR shall be required.
- 15 c. If the appropriate County officer or body finds that the proposed project may have a significant
16 effect on the environment, the completed Negative Declaration shall be adopted and the approval
17 or denial of the proposed project considered.
- 18 d. If the appropriate County officer or body finds that the proposed project may have a significant
19 effect on the environment, the approval or denial of the proposed project shall not be considered,
20 and an EIR shall be required.
- 21 e. The adoption of the Negative Declaration shall not be effective until the appeal period
22 prescribed by ordinance for the proposed project, if any, has expired.

23
24
25 **SECTION 403.**

- 26 a. The adoption of a Negative Declaration by the appropriate County officer or body is final unless
27 County ordinance provides for an appeal of the decision on the proposed project and such appeal
28 is filed within the prescribed time. All such appeals shall be deemed an appeal of both the

1 adoption of the Negative Declaration and the decision on the proposed project itself.

- 2 b. Notwithstanding the above, when an EIR is required following a reevaluation pursuant to Section
3 402 of these rules, no County officer or body shall authorize any project or approve any
4 application for a permit until a final EIR has been completed and certified.
5

6 **DIVISION V**
7 **DETERMINING THAT A PROJECT WILL HAVE**
8 **A SIGNIFICANT EFFECT ON THE ENVIRONMENT**
9

10 **SECTION 501.**

11 If the Planning Director finds, after an Initial Study, that the proposed project may have a significant
12 effect on the environment, an Environmental Impact Report shall be prepared.
13

14 **SECTION 502.**

15 Upon receipt of the Planning Director's determination that an EIR will be required, the project's sponsor
16 may revise the proposed project. If one or more of the significant effects on the environment are
17 mitigated by the revised project, a revised Initial Study shall be prepared and the Planning Director shall
18 make a new determination as to whether the proposed project may have a significant effect on the
19 environment.
20
21

22 **DIVISION VI**
23 **PREPARATION OF EIR**
24

25 **SECTION 601.**

- 26 a. If the Planning Director determines that an EIR will be required, the Planning Director shall
27 prepare or cause to prepare an EIR and shall also determine whether the proposed project
28 sponsor or the Planning Department shall be responsible for preparing the draft EIR. The

1 appropriate deposit, required by County Ordinance No. 671, shall be required and shall be used to
2 reimburse the County for all administrative costs incurred in the preparation, review and
3 processing of the draft and final EIR. If the Planning Department assumes the responsibility for
4 preparing the draft and final EIR, the proposed project sponsor shall provide such data and other
5 information as may be required by the Planning Director, in a form acceptable to the Planning
6 Director.
7

- 8 b. When the proposed project sponsor is responsible for the preparation of the draft EIR, the Notice
9 of Preparation that is sent to the proposed project sponsor shall, in addition to all other
10 requirements, notify the proposed project sponsor of the amount of the required deposit, and
11 indicate that the deposit must be submitted not more than 30 days, and the draft EIR must be
12 submitted not more than 120 days, after receipt of the Notice of Preparation. Upon submittal of an
13 acceptable draft EIR, the Planning Department shall, independently review, evaluate and, if
14 necessary, revise the draft EIR so that it represents the independent judgment of the Planning
15 Department.
- 16 c. When the Planning Department is responsible for the preparation of the draft EIR, the Notice of
17 Preparation that is sent to the proposed project sponsor shall, in addition to all other requirements,
18 notify the proposed project sponsor of the amount of the required deposit, and indicate that the
19 deposit and any data required by the Planning Director must be submitted not more than 30 days
20 after receipt of the Notice of Preparation.
- 21
- 22 d. It shall be conclusively presumed that the proposed project sponsor has abandoned the proposed
23 project if any required deposit or draft EIR is not submitted within the required time period;
24 provided, however, this time period may be extended only for an additional 30 days in the event
25 that compelling circumstances justify the extension and the proposed project sponsor requests the
26 extension. Any proposed project that, pursuant to this section, is presumed abandoned shall
27 thereupon immediately be returned to the proposed project sponsor and no further processing shall
28 occur.

1 **SECTION 602.**

2 A final EIR shall be prepared and recommended for certification by the Planning Director.

3
4 **SECTION 603.**

5 The Planning Director shall keep accurate records and accounts of all expenses incurred by the County in
6 preparing and reviewing the draft and final EIR, including administrative overhead. The Planning
7 Director shall mail to the proposed project sponsor an itemized statement of all expenses incurred by the
8 County. If the total expenses incurred are less than the amount of the deposit, the Planning Director shall
9 refund the difference to the proposed project sponsor.
10

11 **DIVISION VII**
12 **SPECIAL PROVISIONS RELATING TO EIRS**
13

14 **SECTION 701.**

15 All public notices shall state that period of time within which comments must be received by the County
16 if they are to be considered. If there is no comment received within this specified time, it shall be
17 assumed that such agency or person has no comment to make.
18

19 **DIVISION VIII**
20 **APPEALS OF DETERMINATIONS TO**
21 **REQUIRE AN EIR**
22

23 **SECTION 801.**

- 24
- 25 a. The proposed project sponsor may appeal the determination that a proposed project may have a
26 significant effect on the environment.
 - 27 b. Appeals of the determination of the Planning Director that a proposed project may have a
28 significant effect on the environment shall be directed to the Planning Commission and shall be

1 accompanied by the fee set forth in County Ordinance No. 671.

- 2 c. An appeal from a determination that a proposed project may have a significant effect on the
3 environment shall not be accepted unless it contains the name and mailing address of the appellant
4 and briefly discuss how the proposed project will avoid the adverse environmental effects
5 documented in the Initial Study, and a list of names and addresses of owners of real property
6 which is located within 300 feet of the exterior boundaries of the project site, as such owners are
7 shown on the last equalized assessment roll. All such appeals shall be filed with the Planning
8 Department within 10 days of receipt by the proposed project sponsor of the Planning Director's
9 determination that an EIR will be required.
10

11
12 **SECTION 802.**

13 Appeals from a determination that a proposed project may have a significant effect on the environment
14 shall be set for hearing within 30 days after receipt of a complete appeal by the Planning Department.

15 Public notice of the appeal hearing shall be given in the same manner as required for the proposed
16 project. Such notice shall include the following information:

- 17 a. A brief description of the proposed project and its proposed location.
18 b. The date, time and place of the hearing.
19 c. That an appeal has been filed on the determination that an EIR should be prepared.
20 d. That the Planning Commission may determine at the hearing that the proposed project will not
21 have a significant effect on the environment, and if so determined, an EIR will not be required.
22 e. A statement that prior to making a decision, the Planning Commission will consider all
23 testimony, oral and written, as to whether the proposed project may have a significant effect on the
24 environment.
25

26
27 **SECTION 803.**

28 The Planning Commission shall hear relevant testimony from interested persons and make its decision

1 within a reasonable time after the close of the public hearing. The Planning Commission shall state the
2 reasons for its decision, which reasons shall be made a part of the written record of the project. Notice of
3 the decision shall be filed by the Planning Director with the Clerk of the Board of Supervisors, together
4 with a report of the proceedings, not more than fifteen (15) days after the decision. A copy of the notice
5 of decision shall be mailed to the appellant and to any person who has made a written request for a copy
6 of the decision. If the Planning Commission is unable to make a decision, that fact shall be filed with the
7 Clerk of the Board in the same manner for reporting decisions and shall be considered as a notice of
8 denial of the appeal by the Planning Commission. The Clerk of the Board shall place the notice of
9 decision on the next agenda of the Board of Supervisors held five (5) or more days after the Clerk
10 receives the notice from the Planning Director.

11
12 **SECTION 804.**

13 The decision of the Planning Commission is considered final and no action by the Board of Supervisors
14 is required unless, within ten (10) days after the notice of decision appears on the Board's agenda, the
15 applicant files an appeal, accompanied by the fee set forth in County Ordinance No. 671, with the Clerk
16 of the Board or unless the Board assumes jurisdiction by ordering the matter set for public hearing
17 assumes jurisdiction. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board
18 shall set the matter for public hearing before the Board not less than thirteen (13) nor more than sixty (60)
19 days thereafter and shall give notice of the time and place of the hearing in the same manner as notice was
20 given of the hearing before the Planning Commission.

21
22 **SECTION 805.**

23 The Board of Supervisors shall hear the matter de novo; however, the documents and the minutes of the
24 hearing before the Planning Commission shall be a part of the Board's record at its hearing on the matter.
25 The Board shall hear relevant testimony from interested persons and within a reasonable time after the
26 close of the hearing, make its decision sustaining, reversing, or modifying the decision of the Planning
27 Commission.
28