

Title 16

ENVIRONMENTAL PROTECTION

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Chapter 16.04

GENERAL PROVISIONS

Sections:

- 16.04.010 Purpose.
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16.04.010 Purpose. The purpose of the ordinance codifies in this chapter is to implement the Environmental Quality Act of 1970 insofar as it is applicable to the city. (Ord. 100 §2, 1973)

16.04.020 Construction. The provisions of the ordinance codified in this chapter shall be construed in accordance with the Environmental Quality Act of 1970 and any interpretations thereof by a competent tribunal. Any provision of the ordinance codified in this chapter which is less restrictive than required by such state law shall be construed as restrictive as required by such state law insofar as possible. Any provision of the ordinance codified in this chapter which is more restrictive than required by such state law shall be construed to be only as restrictive as required by such state law insofar as possible. Nothing in this chapter shall preclude the city from taking such other action in respect to projects as is deemed necessary by the city to obtain full compliance with by the city with the provisions of the Environmental Quality Act of 1970. (Ord. 100 §2.1, 1973)

16.04.030 Effect on past actions. The adoption of the ordinance codified in this chapter shall not be construed to invalidate any past governmental action by the city, which did not comply with the provisions of the ordinance codified in this chapter or of the Environmental Quality Act of 1970. Any past governmental action by the city on the following types of projects hereby is ratified and approved:

- A. Projects, which would not have a significant effect on the environment.
- B. Projects for which there was substantial compliance with the provisions of this chapter or of the Environmental Quality Act of 1970.
- C. Projects, which received environmental approval from the state or federal government.
- D. Projects for which the environmental impact was considered by the city even though there was no environmental impact report prepared. (Ord. §2.2, 1973)

Chapter 16.08

DEFINITIONS

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16.08.010 Generally. For the purpose of this title, the following terms and phrases are defined as set out in this chapter unless it is apparent from the context that a different meaning is intended. (Ord. 100 §1,1973)

16.08.020 Categorical exemption. "Categorical exemption" means the immunity of a class of projects from the necessity for an environmental assessment, either based upon an exemption under the Environmental Quality Act of 1970 or based upon a determination that the type of projects comprising the class normally will have no significant effect on the environment. (Ord. 100 §1.1, 1973)

16.08.030 Decision maker. "Decision maker" means any agency, official or employee of the city who is authorized to take governmental action on project, including but not limited to the city council. (Ord. 100 §1.2, 1973)

16.08.040 Discretionary project. "Discretionary project" means a project for which the government action requested allows a latitude of decision within which the decision maker determines issues for that project according to the circumstances and according to the judgment of the decision maker, that is, the decision maker is not expressly controlled by fixed rules of law. (Ord. 100 §1.3, 1973)

16.08.050 Environment. "Environment" means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance. The general term "environment" is divided into the following categories:

A. The physical or inorganic environment, comprising such factors as climate and soil;
B. The biological environment, comprising wild plants and animals, including bacteria and other germs;

C. The social environment, to:
1. The psychosocial environment, comprising buildings, roads and all manufactured objects,
2. The biosocial environment, comprising domesticated plants and animals.
(Ord.100 §1.4, 1973)

16.08.060 Environmental assessment. "Environmental assessment" means an evaluation of the characteristics of a project and of its proposed environment to determine whether the project may have significant effect on the environment. (Ord. 100 §1.5, 1973)

16.08.070 Environmental documents. "Environmental documents" means all of the papers pertaining to a specific projects, which are prepared by the city and are relied upon as the basis, proof or support of the environmental impact of the project. (Ord. 100 §1.6, 1973)

16.08.080 Environmental impact report. "Environmental impact report" means the detailed written statement and comments as defined in the Environmental Quality Act of 1970. (Ord. 100 §1.7, 1973)

16.08.090 Environmental Quality Act of 1970. "Environmental Quality Act of 1970" means Division 13 of the California Public Resources Codes, as it may be amended from time to time, and any regulations adopted pursuant thereto. (Ord. 100 §1.9, 1973)

16.08.100 Governmental action. "Governmental action" means the proposed authorization by the city of a project or a discrete part of a project. Such proposed authorization may be by ordinance, resolution, contract, lease, permit, license or any other form of entitlement to proceed with the project proposed. (Ord. 100 §1.9, 1973)

16.08.110 Ministerial project. "Ministerial project" means a project for which the governmental action requested allows no latitude of decision within which the decision maker determines issues for that project according to the circumstances and according to the judgment of the decision maker; that is, the decision maker is expressly controlled by fixed rules of law. (Ord. 100 §1.10, 1973)

16.08.120 Person. "Person" means any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of such entities. (Ord. 100 §1.11, 1973)

16.08.130 Project. "Project" means a planned undertaking requiring governmental action on the undertaking as a whole or on any discrete part of the undertaking authorizing land acquisition, site development, building alteration, building construction or any significant intensification of the use of land. "Project" as defined by the Environmental Quality Act of 1970 includes the following:

- A. Activities directly undertaken by the city;
- B. Activities undertaken by a person other than the city which are supported in whole or in part through contracts, grants, subsidies, loans or other forms of assistance from the city;
- C. Activities involving the issuance to a person other than the city of a lease, permit, license, certificate or other entitlement for use by the city. (Ord. 100 §1.12, 1973)

16.08.140 Significant effect on the environment. "Significant effect on the environment" means an important result, either beneficial or adverse, in the environment of the project, which may be produced by the implementation of the project as proposed.

A. The significance of an effect generally is directly proportional to the following qualities of the effect:

- 1. Its magnitude;
- 2. Its duration;
- 3. Its proximity to the project site;
- 4. The number of individuals directly affected by it;
- 5. The closeness of its relationship to the physical environment.

B. In accordance with the legislative intent stated in the Environmental Quality Act of 1970, the effects on the following items are deemed to be more significant than other environmental effects:

- 1. Aesthetic environmental qualities;
- 2. Natural environmental qualities;
- 3. Scenic environmental qualities;
- 4. Historic environmental qualities, especially examples of the major periods of California history;
- 5. The maintenance and perpetuation of fish and wildlife species;
- 6. Freedom from excessive noise;
- 7. Waste disposal and environmental pollution. (Ord. 100 §1.13, 1973)

16.08.150 Sponsor. "Sponsor" means the person who submits a project or a discrete part of a project for governmental action. (Ord. 100 §1.14, 1973)

Chapter 16.12

ADMINISTRATIVE PROVISIONS

Sections:

16.12.010 Public comment on environmental documents.

16.12.020 Filing of notices.

16.12.030 Authority to sign findings.

16.12.010 Public comment on environmental documents. All written comment or the record thereof by the public or by a governmental agency specifically on the environmental characteristics of a discretionary project shall be transmitted to the city council and, if not required to be a part of the environmental impact report by the Environmental Quality Act of 1970, may be included with the environmental documents for the project. (Ord. 100 §2.4, 1973)

16.12.020 Filing of notices. The clerk of the city council shall file any notices required by the Environmental Quality Act of 1970. (Ord. 100 §2.8, 1973)

16.12.030 Authority to sign findings. Whenever an agency of the city, such as the city council, is required by this chapter to make a finding, such finding may be made orally. The clerk for such agency is authorized to act on behalf of that agency in making the written document and in signing such appropriate document. (Ord. 100 §2.5, 1973)

Chapter 16.16

COMMENCEMENT OF ACTIONS

Sections:

- 16.16.010 Commencement.
- 16.16.020 Proof of service.

16.16.010 Commencement. Any action or proceeding to attack, review, set aside, void or annul any determination, decision, or governmental action by the city on the ground of noncompliance with this title or with the Environmental Quality Act of 1970 shall be commenced as follows:

A. Any action or proceeding alleging that the city is carrying out or has approved a project which may have significant effect on the environment without having determined whether the project may have significant effect on the environment shall be commenced within one hundred eighty days of the city's decision to carry out or approve the project or, of a project is undertaken without a formal decision by the city, within one hundred eighty days of the commencement of the project.

B. Any action or proceeding alleging that the city has improperly determined whether a project may have significant effect on the environment shall be commenced within thirty days after the filing of the notice with the county clerk required by the Environmental Quality Act of 1970.

C. Any action or proceeding alleging that an environmental impact report does not comply with legal requirements shall be commenced within thirty days after the filing of the notice with the county clerk required by the Environmental Quality Act of 1970.

D. Any action or proceeding alleging any other violation of this title or of the Environmental Quality Act of 1970 shall be commenced within thirty days of the alleged violation. (Ord. 100 §2.6, 1973)

16.16.020 Proof of service. Proof of prior service by mail upon the city of a written notice of the commencement of any action or proceeding described in Section 16.16.010 identifying the project shall be filed concurrently with the initial pleading in such action or proceeding. (Ord. 100 §2.7, 1973)

Chapter 16.20

FEES

Sections:

16.20.010 Preliminary environmental assessment.

16.20.020 Environmental assessment.

16.20.030 Environmental impact report.

16.20.010 Preliminary environmental assessment. There shall be no fee for a preliminary environmental assessment; provided, however, that the costs of making such assessment may be reflected in any other fee requires for processing the project. (Ord. 100 §2.3(a), 1973)

16.20.020 Environmental assessment. The fee for an environmental assessment of a project sponsored entirely by a person other than the city shall be twenty-five dollars and shall be paid prior to such environmental assessment. (Ord, 100 §2.3(b), 1973)

16.20.030 Environmental impact report. The fee for the preparation of an environmental impact report for a project sponsored entirely by a person other than the city shall be the actual cost thereof to the city, including but not limited to time spent by the city employees in preparing the report, typing and stenographic costs and expenses incurred in employing consultants to review and prepare the report. A deposit of two hundred dollars to be applied towards the cost of preparing the environmental impact report shall be deposited with the city prior to the preparation thereof, or a greater sum may be required if in the opinion of the city council the cost of the report will exceed the sum of two hundred dollars in which event the estimated cost of the environmental impact report shall be required as a deposit. (Ord. 100 §2.3(c), 1973)

Chapter 16.24

CATEGORICAL EXEMPTIONS

Sections:

<u>16.24.010</u>	<u>Criteria.</u>
<u>16.24.020</u>	<u>Development by city council.</u>
<u>16.24.030</u>	<u>Adoption by resolution.</u>
<u>16.24.040</u>	<u>Effect of categorical exemption.</u>

16.24.010 Criteria. The criteria for granting a class of discretionary projects a categorical exemption shall be as follows:

- A. The projects within the class occur frequently.
- B. The projects within the class in general will not have a significant effect on the environment due to their nature.
- C. For classes of projects which by their nature may have significant effect on the environment, the projects within the class in general will not have a significant effect on the environment because sufficient guidelines for taking governmental action have been established by ordinance, by resolution, or by motion to ensure the conformity of the projects with the Environmental Quality Act of 1970. (Ord. 100 §3, 1973)

16.24.020 Development by city council. The city council shall develop a list of classes of projects, which may be granted categorical exemptions in addition to those classes of projects exempted by the Environmental Quality Act of 1970. (Ord. 100 §3.1, 1973)

16.24.030 Adoption by resolution. The city clerk shall recommend to the city council those classes of projects, which should be granted categorical exemptions. The granting or revocation of a categorical exemption for a class of projects shall be by resolution. (Ord. 100 §3.2, 1973)

16.24.040 Effect of categorical exemption. Any project, which is within a class of projects granted a categorical exemption and which does not have environmental characteristics significantly different from the other members of such class is deemed to be a project which will not have a significant effect on the environment. No environmental assessment of environmental impact report is required for such a project. (Ord. 100 §3.3, 1973)

Chapter 16.28

ENVIRONMENTAL ASSESSMENTS

Sections:

<u>16.28.010</u>	<u>Development of procedure by city council.</u>
<u>16.28.020</u>	<u>Adoption of procedure by resolution.</u>
<u>16.28.030</u>	<u>Environmental assessment by city council.</u>
<u>16.28.040</u>	<u>Data from sponsor.</u>
<u>16.28.050</u>	<u>Recommendation by city council.</u>
<u>16.28.060</u>	<u>Finding by decision maker.</u>

16.28.010 Development of procedure by city council. The city council shall develop a procedure for environmental assessment of projects. Such procedure may in the form of a questionnaire, a matrix, or any other form. (Ord. 100 §4, 1973)

16.28.020 Adoption of procedure by resolution. The city clerk shall recommend to the city council the procedure for environmental assessments of projects. The adoption or revision of such procedure shall be by resolution. (Ord. 100 §4.1, 1973)

16.28.030 Environmental assessment by city council. The city council shall make an environmental assessment for the following after payment of the appropriate fee:

A. Any project which does not qualify for a categorical exemption and which may require an environmental impact report under the Environmental Quality Act of 1970 and any regulations adopted pursuant thereto.

B. Any project, which is submitted by the sponsor to the city council for an environmental assessment prior to the submittal of the project to the city for governmental action. (Ord. 100 §4.2, 1973)

16.28.040 Data from sponsor. The city council may require the sponsor of a project to provide all or a part of the base data on the project and its proposed environment necessary for an environmental assessment of the project. (Ord. 100 §4.3, 1973)

16.28.050 Recommendation by city council. If the city council finds that a project may have significant effect on the environment, it shall record this recommendation in writing and, after the payment of the appropriate fee, prepare an environmental impact report for the project. (Ord. 100 §4.4, 1973)

16.28.060 Finding by decision maker. If the city council recommends that a project does not have significant effect on the environment, each decision maker for the project shall confirm or reject this recommendation and record his finding in writing and forward the same to the city council. In the event of a negative declaration, the city council shall file a negative declaration pursuant to state regulations with the appropriate agency. (Ord. 100 §4.5, 1973)

Chapter 16.32MINISTERIAL PROJECTSSections:

16.32.010 Ministerial projects.

16.32.010 Ministerial projects. The city council shall develop a list of classes of projects which are ministerial. The city clerk shall recommend to the council the list of ministerial projects. Approval of the list of ministerial projects shall be by resolution. Ministerial projects are not subject to the environmental impact procedures specified in this title or to the Environmental Quality Act of 1970. (Ord. 100 §2.9, 1973)

Chapter 16.36ENVIRONMENTAL IMPACT REPORTSSections:

16.36.010 Development of procedure by city council.
16.36.020 Adoption of procedure by resolution.
16.36.030 Environmental impact report by city council.
16.36.040 Supplemental environmental impact report.
16.36.050 Data from sponsor.
16.36.060 Public hearing.
16.36.070 Finding by decision maker.
16.36.080 Use of environmental impact report.

16.36.010 Development of procedure by city council. The city council shall develop a procedure for the preparation of environmental impact reports. Such procedure may be in the form of a questionnaire, a matrix, or any other form. (Ord. 100 §5, 1973)

16.36.020 Adoption of procedure by resolution. The city clerk shall recommend to the city council the procedure for environmental impact reports. The adoption or revision of such procedure shall be by resolution. (Ord. 100 §5.1, 1973)

16.36.030 Environmental impact report by city council. The city council shall make an environmental impact report for the following after payment of the appropriate deposit:

A. Any project which does not qualify for a categorical exemption and which may require an environmental impact report under the Environmental Quality Act of 1970 and any regulations adopted pursuant thereto.

B. Any project, which is submitted by the sponsor to the city council for an environmental assessment prior to the submittal of the project to the city for governmental action. (Ord. 100 §5.2, 1973)

16.36.040---16.36.080

16.36.040 Supplemental environmental impact report. The city council shall prepare a supplemental environmental impact report for a project whenever the same is required by the Environmental Quality Act of 1970 or regulations adopted pursuant thereto, whenever there is any data on the project or its proposed environment which has not previously considered in the environmental impact report, or whenever it appear necessary to revise the original environmental impact report. (Ord. 100 §5.3, 1973)

16.36.050 Data from sponsor. The city council may require the sponsor of a project to provide all or a part of the base data on the project and its proposed environment necessary for an environmental assessment of the project. (Ord. 100 §4.3, 1973)

16.36.060 Public Hearing. Before any governmental action may be taken on a project which may have significant effect on the environment, a public hearing shall be held on the environmental impact report for the project and on any supplemental environmental impact report for the project which differs significantly from the original environmental impact report. After the city council has prepared a preliminary draft of the environmental impact report, it shall hold a public hearing in regard to the project. Notice of the time and place of the hearing shall be published at least once in a newspaper published and circulated in the city, the first publication of which shall be at least four days prior to the time set for the hearing. Any environmental impact report to be considered shall be available in the city hall for public inspection from the time of publication until the time of hearing. At the time and place set for the hearing, evidence on the potential effect of the project on its proposed environment shall be received. The hearing may be continued from time to time. No decision on the environmental impact of the project or on the proposed governmental action is necessary at such a hearing. (Ord. 100 §5.5, 1973)

16.36.070 Finding by decision maker. Each decision maker for a project shall make a finding on the sufficiency of the environmental impact report and any supplemental environmental impact report for the project and shall record his findings in writing. If the decision maker finds that the environmental impact report or any supplemental environmental impact report is not sufficient, he shall transmit the project to the city council for a supplemental environmental impact report. (Ord. 100 §5.6, 1973)

16.36.080 Use of environmental impact report. Every decision maker for a project shall consider all environmental impact reports for the project prior to approving or disapproving the project. The environmental, data supplied by these reports and by any other source may be used by the decision maker as follows:

A. Authorization of a project may be denied if, in the opinion of the city council and the decision maker:

1. Its adverse environmental effect outweighs its beneficial environmental effect; or
2. A feasible alternative exists having a lesser adverse environmental effect.

B. A project may be authorized subject to conditions reasonably calculated to:

1. Minimize the adverse environmental effect of the project; or
2. Maximize the beneficial environmental effect of the project. (Ord. 100 §5.7, 1973)

