

Chapter 18.95

CEQA IMPLEMENTATION GUIDELINES

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18.95.010 Purpose.

These Local CEQA Implementation Guidelines have been adopted by the City of Mt. Shasta to:

- (A) Implement Section 21082 of the Public Resources Code (hereinafter referred to as the California Environmental Quality Act of 1970, or “CEQA”).
- (B) Implement Section 15022 of the State CEQA Guidelines (Division 6, Title 14, Section 15000 et seq. of the California Code of Regulations).

(Note: All references to section numbers, unless otherwise noted, are to the State CEQA Guidelines.)

(CCO-08-02)

18.95.020 Consistency.

- (A) These rules and procedures are consistent with, and are intended to supplement, the Sate CEQA Guidelines. The State Guidelines are hereby incorporated by reference. A copy of the State Guidelines is on file in the City of Mt. Shasta Planning Department, and can also be found on the internet.

The rules and procedures adopted by the City of Mt. Shasta for implementing CEQA are intended to focus the general provisions of the State CEQA Guidelines to the activities of the City. If any portion of these rules and procedures conflicts with any provision of CEQA or the State CEQA Guidelines, the provisions of CEQA and the State Guidelines shall prevail.

(CCO-08-02)

18.95.030 Applicability and Scope.

- (A) CEQA applies to governmental actions including:
 - (1) Activities directly undertaken by a governmental agency.
 - (2) Activities financed in whole or in part by a governmental agency.
 - (3) Private activities that require discretionary approval from a government agency.
- (B) The City’s CEQA Guidelines, in the context of projects within the city limits or undertaken by the City, shall apply to the same actions to which the State CEQA Guidelines would apply.
- (C) The rules and procedures set forth in these local guidelines shall apply to the City and all departments, agencies, and districts under the jurisdiction of the City Council of the City of Mt. Shasta. The requirements of these rules and procedures shall apply to all projects, both public and private, that require City approval.

(CCO-08-02)

18.95.040 Revisions. The City Planner, from time to time, may propose to revise these rules and procedures when he/she determines that such revisions are necessitated by amendments to CEQA and the State CEQA Guidelines, or when the revisions are essentially technical in their nature and conform to CEQA and the State Guidelines. All other revisions, such as changes to accommodate the goals and objectives of the City, shall be approved by a resolution of the City Council.

(CCO-08-02)

18.95.050 Definitions. The following definitions are intended to clarify and supplement, but not negate or replace, the definitions contained in the State CEQA Guidelines. In the event of any inconsistency between these definitions and definitions in the State Guidelines, or for any terms that are not defined below, the definitions set forth in the State Guidelines shall prevail.

- (A) “Action” – A decision made by the City Council, or by a city official or commission authorized by the Council, to approve or deny a project. In the context of CEQA, an action includes "ministerial actions" and actions to approve “discretionary projects”.
- (B) “Approval” – The decision by a public agency such as the Planning Commission, City Council, a city agency or city advisory body that commits the agency to a definite course of action in regard to a project intended to be carried out by any person. With private projects, approval occurs upon the earliest commitment to issue, or the issuance by the public

agency of, a discretionary permit, contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.

- (C) “Advisory Body” – The public body or administrative official required by State Law or City Ordinance or Resolution to consider and make recommendations on a specific type of project. The Planning Commission is an advisory body for legislative approvals of the City Council concerning planning and land use.
- (D) “Categorical Exemptions” - An exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment. [State Guidelines Section 15300, et seq.].
- (E) “City” - City means the City of Mt. Shasta, which includes all departments, commissions, and boards thereof.
- (F) “City Planner” - City Planner means an official employed or retained by the City of Mt. Shasta to manage planning matters on behalf of the City. The term includes the position of “Planning Director” when the City has an official with that title.
- (G) “Council” - Council means the City Council of the City of Mt. Shasta.
- (H) “County Clerk” - The County Clerk for Siskiyou County.
- (I) “Decision-Making Body” - The decision-making body shall be the City Council or the Planning Commission (as delegated by the City Council) for the purposes of these Guidelines.
- (J) “Department” - Depending on the context, department means any agency of the State of California, any division of any agency, any department of the City, or any special district governed by the City Council of the City of Mt. Shasta.
- (K) “Discretionary Project” - A project that requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.
Examples include: general plan amendments; rezoning; variances; conditional use permits; tentative subdivision maps; and parcel maps.
- (L) “Guidelines, State” - State Guidelines means the State Guidelines for the Implementation of the California Environmental Quality Act (Division 6, Title 14, Section 15000 et. seq. of the California Administrative Code).
- (M) “Guidelines, Local” - Local (or City) Guidelines means the guidelines set forth herein, pursuant to State Guidelines Section 15022, for implementation of the California Environmental Quality Act.
- (N) “Lead Agency” - The public agency that has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or a Negative Declaration will be required for a project and will cause the document to be prepared.
- (O) “Ministerial” - “Ministerial” describes a governmental action involving little or no personal judgment by the public official as to the wisdom or

manner of carrying out the project. The public official merely applies the law to the facts as presented, but uses no special discretion or judgment in reaching a decision.

A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.

- (P) “Mitigation” - Mitigation may consist of any of the following: Avoiding the impact altogether by not taking a certain action or parts of an action; Minimizing impacts by limiting the degree or magnitude of the action and its implementation; Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment; Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, and; Compensating for the impact by replacing or providing substitute resources or environments.
- (Q) “Planning Commission” - Planning Commission means the commission appointed by the City Council to make recommendations and take actions concerning land development within the City of Mt. Shasta.
- (R) “Planning Department” - The Planning Department of the City of Mt. Shasta.
- (S) “Planning Director” - Planning Director means the director of the Planning Department for the City of Mt. Shasta when the City has an official with this title, or his/her designee to act on his/her behalf. See also “City Planner”.
- (T) “Project” - The whole of an action that has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following: An activity directly undertaken by any public agency including, but not limited to, public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of General Plans or elements thereof; An activity undertaken by a person that is supported in whole or in part through public agency contracts, grants, subsidies, loans or other forms of public assistance from one or more public agencies, or; An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
- (U) “Responsible Agency” - A responsible agency is a public agency that proposes to carry out or approve a project for which the lead agency is preparing or has prepared an EIR or negative declaration. For the purposes of CEQA, the term includes all public agencies other than the lead agency that have discretionary approval authority over the project.
- (V) “Significant Effect on the Environment” - A substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora,

fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

- (W) “Substantial Evidence” - Enough relevant information and reasonable inferences from that information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly erroneous or inaccurate, or evidence of social or economic impacts that do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.
- (X) “Staff Planner” - The City Planner assigned to make determinations and recommendations on the potential environmental impacts of projects and who manages the environmental review process for project applications.
- (Y) “Threshold of Significance” - A quantitative or qualitative standard, or set of criteria, by which the significance of a given environmental effect may be determined.
- (Z) “Trustee Agency” - A state agency or special district having jurisdiction by law over natural resources affected by a project that are held in trust for the people of the state of California. Trustee Agencies relevant to the City of Mt. Shasta include, among others, the California Department of Fish and Game and the Mt. Shasta Parks and Recreation District.

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18.95.060 Application Procedures.

- (A) CEQA Process Summary (§15002(k)). The Environmental Review Process generally consists of three basic steps:
 - (1) The Lead Agency examines the project to determine whether the project is subject to CEQA at all. If the project is exempt, the process does not need to proceed any further. The Agency may prepare a Notice of Exemption.
 - (2) If the project is not exempt, the Lead Agency conducts an Initial Study to determine whether the project may have a significant effect on the environment. If the Initial Study shows that there is no substantial evidence that the project may have a significant effect, the Lead Agency prepares a Negative Declaration or Mitigated Negative Declaration (MND).
 - (3) If the Initial Study shows that the project may have a significant

effect, the Lead Agency prepares an Environmental Impact Report (EIR).

- (B) Pre-Application Process The City provides a pre-application process wherein an application may be submitted and reviewed by City Staff in anticipation of a full application being made after initial comments are made by the City. This process may also include consideration of the expected environmental process that would be appropriate for the pending application. As part of the pre-application process, the City may establish a scope for subsequent environmental review and an indication of any specialized studies that may be required.
- (C) Determining if Applications are Complete
- (1) 30-day Time Limit The City may take up to 30 days to review an application for completeness. While conducting this review for completeness, the City will determine if there are issues that might require preparation of an EIR, or that may require additional explanation and study by the applicant. Accepting an application as complete does not limit the authority of the City to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application.
 - (2) Applicant Checklist Once a project application has been submitted, it will be checked to determine if it contains the required information for acceptance by the Planning Department. A checklist of required items for each type of application is available at the Planning Department. It is the responsibility of the applicant to ensure that all required information is provided. Projects will not be deemed received for processing until an application requesting approval for the project is accepted as complete by the staff planner.
 - (3) Complete Applications Formal application involves completing a City application form and payment of applicable fees to the City. The staff planner will make reasonable efforts to complete a review of application completeness and notify the applicant of project status with a Letter of Completeness within 10 days of the application submittal date. When the staff planner determines that an application is complete, the applicant will be notified in writing within 30 days of the original submittal. In the letter of completeness the staff planner will indicate the anticipated level of environmental review.
 - (4) Incomplete Applications If the staff planner determines that an application is incomplete, the applicant shall be notified in writing within 30 days of the submittal with a Letter of Incompleteness, specifying the areas that were found to be incomplete and providing guidance concerning what is needed to complete the application. The staff planner may also set a meeting time and date

to discuss the items absent from the application. The meeting is not required, nor does a meeting scheduled after the 30-day timeline imply that the application is complete. This provision also applies to applications that are resubmitted after having been previously determined to be incomplete, with the timeframes starting over at the time the application is resubmitted.

- (5) Complete Resubmitted Applications When the staff planner determines that a formerly incomplete application that has been resubmitted is complete, the applicant shall be notified in writing with a Letter of Completeness within 30 days of the resubmission.

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18.95.070 Determining If The Project Is Subject To CEQA.

- (A) Considering Use of Exemptions Not all actions are subject to CEQA. Upon acceptance of an application as complete, the City will determine if the requested action is an activity that is:
 - (1) Subject to one or more discretionary governmental approvals.
 - (2) Involving the issuance by one or more agencies to a person of a lease, permit, license, certificate or other entitlement for use.
 - (3) Directly undertaken by a public agency such as public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of General Plans or elements thereof.
 - (4) Undertaken by a person that is supported in whole or in part through public agency contracts, grants, subsidies, loans or other forms of public assistance.

If a project does not meet the above criteria, and/or is clearly a ministerial act, it may not be subject to CEQA. If a project does meet the above criteria, processing should continue pursuant to CEQA to the next step of evaluation.

- (B) After the staff planner has determined that a project application is complete and possibly subject to CEQA, he/she will complete a review of the application to determine if there is an appropriate exemption that would apply to the requested action. The planner will evaluate the project to determine if any of the following types of exemptions apply to the project:
 - (1) Projects with no possibility of significant effect (State Guidelines Section 15061.b.3). This determination shall be based on planning staff's judgment as to whether it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and shall be made in accordance with the provisions of the State Guidelines. Examples of this type of action include, but are not

limited to:

- (a) Text changes to ordinances and resolutions designed to clarify a process or procedure, but which would not result in changes in land use that would be more intensive or extensive than previously allowed.
- (b) Changes to a zone district to reflect fully-built existing uses.
- (c) Creation of condominiums within an already constructed project.
- (d) Division of an existing commercial development into separate parcels or pads for lease or sale.

(C) Ministerial Projects. (See State Guidelines Section 15268.) Ministerial projects are typically exempt from the requirements of CEQA as a form of statutory exemption. In the City of Mt. Shasta, ministerial projects typically include, but are not limited to, the following when the particular permit is consistent with the appropriate zoning district:

- (1) Building Permits
- (2) Demolition Permits
- (3) Electrical Permits
- (4) Plumbing Permits
- (5) Final Subdivision Map Approval
- (6) Sign Permits
- (7) Business Permits
- (8) Certificates of Occupancy

However, where a project that is otherwise ministerial involves work on a site known to contain sensitive resources (e.g., historic or cultural resources, wetlands), or where a permit for the proposed action will require the exercise of substantial discretion by the decision-making authority, the City may determine that issuance of the permit is not to be deemed ministerial and shall be subject to CEQA and these Local Guidelines.

(D) Statutory Exemptions (See Article 18, CEQA Guidelines Sections 15260 - 15285). The California Legislature has enacted a variety of statutory exemptions from CEQA. Most statutory exemptions are very specific to certain types of projects. However, there are several categories that are of general application and more commonly used by local agencies. Some of the more commonly used statutory exemptions are listed below. The CEQA Guidelines need to be consulted for a complete consideration of these and other statutory exemptions.

- (1) Ministerial Projects: Ministerial projects are among the most commonly used statutory exemptions. (See Section 4.1.2 above.)
- (2) Emergency Projects: Most emergency projects are exempt. However, many “safety enhancement projects” may not qualify as emergency projects. (State CEQA Guidelines Section 15269).
- (3) Rejected or Disapproved Projects: State CEQA Guidelines Section 15270 states that CEQA does not apply to projects which a public

agency rejects or disapproves. This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. Such disapprovals often involve requests for general plan amendments when the City determines it has no desire to amend its general plan.

- (4) Feasibility and Planning Studies: A project that consists only of feasibility or planning studies for possible future actions that the agency has not approved, adopted or funded does not require the preparation of an EIR or a negative declaration, but does require “consideration” of environmental factors. This provision does not apply to the adoption of a plan that will have a legally binding effect on later activities. (See State CEQA Guidelines Section 15262).
- (E) Categorical Exemptions (See Article 19, CEQA Guidelines Sections 15300 - 15329). A categorical exemption is an exemption from CEQA requirements for classes of projects that the Secretary of Resources has determined generally will not have a significant effect on the environment, unless there is an exception to the categorical exemption.

Particular exemptions are usually limited to certain circumstances and/or the scale of the action. For example, the Class 1 categorical exemption may exempt minor alterations of existing structures, but if a proposed alteration exceeds the scale of being “minor” as prescribed for that class of exemption, the project would be subject to additional CEQA evaluation. Similarly, as described in CEQA Guidelines Section 15300.2, there may be circumstances concerning particular project sites that would require an exception to the categorical exemption. Some uses that might otherwise be exempt from CEQA because impacts would ordinarily be insignificant should be further evaluated if circumstances might, in fact, result in impacts being rated as significant. Such circumstances may include special issues involving the particular location and/or physical condition of the project site, cumulative impacts, exposure to scenic highways, hazardous waste sites, and historical resources.

As of 2008, there were 33 classes of categorical exemptions recognized in CEQA. The following are brief, generalized descriptions of some of the more frequently used categorical exemptions:

- (1) Class I: Existing Facilities. This exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving

- negligible or no expansion of use beyond that existing at the time of the Lead Agency's determination. The exemption includes interior or exterior alterations. (State CEQA Guidelines 15301).
- (2) Class 2: Replacement or Reconstruction. This exemption applies to the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the original one and will have substantially the same purpose and capacity as the original. (State CEQA Guidelines 15302).
 - (3) Class 3: New Construction or Conversion of Small Facilities. This exemption applies to the construction and location of limited numbers of new small facilities or structures; the installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another when only minor modifications are made to the exterior of the structure. The exemption includes a list of structures with maximum allowable sizes. (State CEQA Guidelines 15303).
 - (4) Class 4: Minor Alterations to Land. This exemption applies to minor public and private alterations in the condition of land, water, or vegetation that do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. The exemption includes grading on land with a slope of less than ten percent and new gardening or landscaping. (State CEQA Guidelines 15304).
 - (5) Class 5: Minor Alterations in Land Use Limitations. This exemption applies to minor alterations in land use limitations in areas with an average slope of less than twenty percent when they do not result in any changes in land use or density. This includes lot line adjustments and variances that do not create new parcels. (State CEQA Guidelines 15305).
 - (6) Class 32: In-Fill Development Projects. This exemption applies to projects characterized as in-fill development when the project and site meets certain requirements including: a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) The project site has no value as habitat for endangered, rare or threatened species; d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and e) The site can be adequately served by all required utilities and public services. (State CEQA Guidelines 15332).

City Planners will need to review the scale of a proposed action and the circumstances of the action and its site in order to confirm if it may qualify

within one of these or one of the other classes of categorical exemptions listed in the State CEQA Guidelines under Article 19.

- (F) Determination If any of the above exemptions apply to the proposed project, the planner may determine that the project is exempt from CEQA and may continue processing the project in anticipation of filing a Notice of Exemption after approval.
- (G) Preparation of Initial Study, even if exempt. If the staff planner determines that an activity or type of project may have a significant effect on the environment, regardless of whether or not the project might otherwise qualify for an exemption under the State Guidelines, he/she may prepare an Initial Study under the provisions of Section 5 of these Local Guidelines. In the event the project may qualify for an exemption, but it is found that mitigation measures are necessary to address recognized impacts, the applicant may agree (by formal written and authorized acknowledgement) to implement certain mitigation measures.
- (H) Filing of a Notice of Exemption. Following approval of an exempt project by the decision-making body, a Notice of Exemption (Appendix A) may be filed as follows:
 - (1) Public Projects The staff planner may file a Notice of Exemption in accordance with Section 15061 (d) of the State Guidelines within 10 working days of the project's approval.
 - (2) Private Projects The staff planner will file a Notice of Exemption for private projects.

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18.95.080 Initial Study Procedures. An Initial Study is a preliminary analysis prepared by the City to determine the appropriate level of environmental review for a project. The environmental review may consist of a Negative Declaration (ND), Mitigated Negative Declaration (MND), or an Environmental Impact Report (EIR). An Initial Study may also assist in recommending mitigation measures to avoid, or to lessen the significance of, environmental impacts.

- (A) Conduct of the Initial Study An Initial Study shall be prepared for all non-exempt public and private projects to determine if the project may have a significant effect on the environment, unless it has been determined by the staff planner that an EIR will be required and the applicant agrees. Initial studies shall be conducted in accordance with Section 15063 of the State CEQA Guidelines and should generally be completed within 20 days upon determination of application completeness. Additional time may be needed to complete specified technical studies.
- (B) Consultation The staff planner must consult with and solicit recommendations from all responsible and trustee agencies (see Sections 15063 (g) and 15083 of the State Guidelines), and applicable City Departments. Appendix B lists agencies with special expertise in various subject areas that may be used to solicit comments in the review of environmental documents. This contact will take the place of correspondence between the City and agency. The comments and

recommendations of the responsible or trustee agency and City Departments shall be reflected in the Initial Study.

- (C) Consultant Services. If the Initial Study will involve complex studies or special technical expertise, or otherwise require assistance for City staff, the City may hire a consultant(s) to prepare all or part of the Initial Study. The cost of the consultant services shall be borne by the applicant. The City may also charge to recover administrative costs.
- (D) Initial Study Checklist Planning staff, or the City's consultant if used, shall evaluate projects for their effect on the environment by using the Initial Study Checklist (refer to Appendix C) and by examining various sources of information including the general plan, specific plans, previously completed EIR's, and other environmental studies.
 - (1) Projects with Previous Environmental Documents For projects with no previous environmental documents, or when previously prepared documents are found to be inadequate because changes have been made to the project or project setting, the analysis shall focus on the identification of significant effects according to Sections 15064, 15064.5 and 15065 of the State Guidelines. These sections describe the criteria and mandatory findings for establishing whether a project may have a significant adverse effect on the environment.
 - (2) Projects with Previous Environmental Documents For projects with previous environmental documents, the analysis shall focus upon the criteria contained in Sections 15162, 15163, 15164 and 15182 of the State Guidelines, which describe the procedures to follow if there have been substantial changes in the project or project setting since the original environmental documents were prepared.
- (E) Thresholds of Significance In addition to the general criteria for determining the potential significance of an environmental impact that are presented in the Initial Study checklist (State CEQA Guidelines Appendix G, and Appendix C of the City's Guidelines), the City may, in addition, recognize and utilize "thresholds of significance" for this purpose. In this manner, the City may adopt quantitative or qualitative standards or criteria by which the significance of particular environmental effects can be evaluated and determined. These standards and criteria may include references to other statutes and regulations. Compliance with a "threshold of significance" will normally result in the effect being determined to be less than significant, whereas non-compliance means that the effect will normally be determined to be significant.
- (F) Archaeological/Historical Study State CEQA Guidelines Section 15064.5 specifically addresses the process of determining when impacts on historical and cultural resources may be significant. For projects that warrant a site-specific archaeological and/or historical evaluation, the applicant shall submit an archaeological/historical survey report by a qualified specialist to the Planning Department in conjunction

with the project application and conform to the requirements of State Guidelines Section 15064.5. If a required survey report is not completed by the applicant, the City may direct that a report be completed by a qualified consultant selected by the City. The cost of such a report shall be borne by the applicant.

- (G) Outside Review If additional outside review is required to determine the potential significant effects of a project (e.g., a study of potential traffic impacts, a biological resources assessment, etc.), it shall be accomplished by consultants selected from the City's list of certified consultants under the supervision of the Planning Department, or by a qualified consultant of the applicant's choice with prior approval from the Planning Department. Any cost for outside studies shall be borne by the applicant.
- (H) Transmit Completed Initial Study to Applicant Upon completion of the Initial Study, the staff planner shall transmit the study along with their preliminary determination to the applicant. If it is found that insufficient information exists to determine whether a project will have a significant effect on the environment, additional information from the applicant or additional studies may be required.
- (I) Meet With Applicant After a preliminary determination that a project may have a significant effect on the environment, the staff planner should meet with the applicant in an attempt to reach agreement on acceptable mitigation measures and/or project alternatives that would lessen or avoid the significant effects outlined in the Initial Study. Where agreement is reached, the staff planner shall revise the Initial Study to incorporate the changes, alternatives and/or identified mitigation measures. Changes to the project or mitigation measures shall be agreed to in writing by the applicant and the agreement documented in the Initial Study.
- (J) Environmental Determination On the basis of the environmental analysis and other information contained in the Initial Study and substantial evidence in the public record, the staff planner shall make one of the preliminary determinations outlined below within 30 calendar days after accepting the application as complete: (NOTE: This deadline may be extended an additional 15 days upon the consent of the City Planner and the project applicant as provided in Section 15102 of the State Guidelines):
- (1) In such cases where a project can not be found to be exempt from CEQA, but there is no identified need for specific mitigation measures to mitigate potential significant effects on the environment, the lead agency shall prepare a Negative Declaration without mitigation measures. (Proceed to Section 6.0 of these Local Guidelines.); OR
 - (2) A Mitigated Negative Declaration (MND) is the appropriate procedure where it can be shown that, although the proposed project could have one or more significant effects on the environment, there will not be, in this case, a significant effect

because revisions in the project plans made by or agreed to by the applicant, and/or mitigation measures incorporated into the project, will avoid or mitigate the effects to a point where clearly no significant effect on the environment will occur. It must also be concluded that there is no substantial evidence in light of the whole record before the City that the project, as revised, may have a significant effect on the environment. If this is the determination, a MND shall be prepared. (Proceed to Section 6.0, Negative Declaration Process). This determination should be made in cases where the mitigation measures are readily apparent and can be agreed to by the staff planner and the applicant. (The City shall prepare a Mitigation Monitoring and Reporting Program (MMRP) pursuant to Section 21081.6 of the Public Resources Code for any mitigation measures incorporated into the project to ensure compliance, as set forth in Section 12.0 of these Local Guidelines.)

- (K) If there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, the lead agency shall:
- (1) Prepare an Environmental Impact Report, pursuant to Section 15064 of the State Guidelines. (Proceed to Section 7.0 of these Local Guidelines);
 - (2) Use a previously prepared EIR, if available, which the lead agency determines has adequately analyzed the project at hand pursuant to Section 15153 of the State Guidelines; OR
 - (3) Determine which of a project's effects have been adequately examined by an earlier EIR, pursuant to a Program EIR, a Master EIR, tiering, an earlier Mitigated Negative Declaration, or another appropriate process, after which a determination can be made concerning the potential effects of the project that have not already been adequately evaluated.
- (L) Mandatory Findings of Significance The City shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur:
- (1) The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish and wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory.
 - (2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
 - (3) The project has possible environmental effects which are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual

project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects as defined in State Guidelines Section 15130.

- (4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.
- (M) Notify Applicant of Determination by the Planning Department As soon as the Planning Department has determined the appropriate environmental review process for the proposed project, the staff planner shall notify the applicant in writing. A copy of the Initial Study, if one was prepared, and a preliminary request for any additional information needed for the relevant environmental review process shall also be forwarded to the applicant.

(CCO-08-02)

18.95.090 Negative Declaration Process A Negative Declaration is a written statement by the Lead Agency briefly describing reasons that a proposed project will not have a significant adverse effect on the environment and therefore does not require the preparation of an EIR. In the following discussion of the Negative Declaration process, the term “Negative Declaration”, unless otherwise noted, applies to both Negative Declarations without mitigation measures and “Mitigated Negative Declarations” that outline mitigation measures necessary to avoid, or reduce the level of significance of, environmental impacts.

- (A) Preparation of a Draft Negative Declaration As soon as the staff planner determines that a project will not have a significant effect on the environment, planning staff shall prepare a Draft Negative Declaration in accordance with Section 15071 of the State Guidelines. NOTE: A Negative Declaration must be completed and approved within 180 days from the date the application was determined to be complete. (State Guidelines Section 15107.)

If it is determined that the City does not have the staff resources, or that it is otherwise beneficial for the City, for the purpose of completing a Negative Declaration, the City may hire a consultant or consultants to prepare the document. The cost of the consultant services shall be borne by the applicant and paid for out of an account maintained by the City for the project pursuant to the City’s cost recovery program.

- (B) Revisions to Project Require Revisions to Negative Declaration If revisions to the project are proposed during its review process, the project should be compared to the original project and environmental review to determine whether changes or additions to the mitigation measures are required. Changes in the project description that are designed to mitigate significant environmental effects shall be completed before the Draft Negative Declaration is released for public review as required by Section 15070 (b)(1) of the State Guidelines.

(CCO-08-02)

18.95.100 Notice Of Intent To Adopt A Negative Declaration (NOI)

- (A) Public Review Period When the City has completed a Draft Negative Declaration, the City shall publish a NOI to provide a public review period pursuant to Section 15105 of not less than 20 days. When a proposed Negative Declaration or Mitigated Negative Declaration and Initial Study are submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 30 days (or as long as the review period established by the State Clearinghouse), unless a shorter period is approved by the State Clearinghouse under Section 15105(d).
- (B) Notice of Intent (NOI) The NOI should contain the following:
- (1) Description A brief description of the proposed project and its location.
 - (2) Starting and Ending Dates for the Review Period The starting and ending dates for the review period during which the City will receive comments on the proposed Negative Declaration.
 - (3) Date, Time, and Place of Any Scheduled Public Meetings The date, time, and place of any scheduled public meetings or hearings to be held by the City on the proposed project.
 - (4) Where Available for Review The address or addresses where copies of the proposed Negative Declaration, including the revisions developed under Section 15070(b) and all documents referenced in the proposed Negative Declaration or Mitigated Negative Declaration, are available for review. This location or locations shall be readily accessible to the public during the City's normal working hours.
 - (5) Hazardous Waste Sites If the project site is on any of the lists shown under Section 65962.5 of the Government Code including, but not limited to, lists of hazardous waste facilities, land designated as hazardous waste property, and hazardous waste disposal sites, and the information in the Hazardous Waste and Substances Statement required under subsection (f) of that section.
 - (6) Other Information Other information specifically required by statute or regulation for a particular project or type of project.
- (C) Announcement of NOI The City shall provide an NOI to the public, responsible agencies, trustee agencies, and the county clerk sufficiently prior to adoption by the City of the Negative Declaration to allow the public and agencies the review period provided under State CEQA Guidelines Section 15105.

Announcement of a notice of intent to adopt a ND or MND shall be publicized by at least one of the following procedures to allow the public the review period provided under State CEQA Guidelines Section 15105:

- (1) Publication at least once in a newspaper with general circulation.
- (2) Posting of notice by the City on and off the site in the area where the project is to be located.

- (3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.
 - (4) The alternatives for providing public notice outlined herein shall not preclude the City from providing additional notice by other means if the City so desires, nor shall the requirement of this section preclude the City from providing the public notice at the same time and in the same manner as public notice required by any other laws for the project.
- (D) Recipients of Notice of Intent In addition to publicizing the NOI as described above, the City shall mail the NOI to adopt a Negative Declaration to all organizations and individuals who have previously requested the notice in writing, and to all of the following:
- (1) Responsible Agencies (including a copy of the proposed Negative Declaration and the Initial Study).
 - (2) Trustee Agencies (including a copy of the proposed Negative Declaration and the Initial Study).
 - (3) Every Other Public Agency with Jurisdiction By Law over resources affected by the project (including a copy of the proposed Negative Declaration and the Initial Study).
 - (4) The State Clearinghouse when one or more state agencies will be a responsible agency or a trustee agency, or will exercise jurisdiction by law over natural resources affected by the project, or where the project is of statewide, regional, or area-wide environmental significance (see Sections 15206 and 15207 of the State CEQA Guidelines) (including a copy of the proposed Negative Declaration and the Initial Study).
 - (5) Commenting Agencies Any public agency that has commented on the proposed Negative Declaration during preparation.
 - (6) Person Requesting A Copy Any person requesting a copy of the NOI.
 - (7) Public Copies of Proposed Negative Declaration Copies of the proposed Negative Declaration and the Initial Study shall be made available for review by the public at the City Planning Department, where loan copies shall also be available. The City may establish and charge a cost recovery fee for copies of an EIR for purchase by individuals or organizations, not to exceed the actual cost of reproduction. Electronic (CD) versions should be used as much as possible to reduce reproduction costs.
- (E) Public Hearings The City may, but is not required to, hold a public hearing on the Draft Negative Declaration as provided by Section 15202 of the State CEQA Guidelines, for the purpose of gaining public input for the public record. The City shall notify in writing any public agency that

comments on the project of any public hearing to be held for the project for which the document was prepared.

(CCO-08-02)

18.95.110 Completing the Negative Declaration

- (A) No Comments Received If no comments are received during the review period (30 days for State Clearinghouse review), the Negative Declaration may be accepted as complete.
- (B) Comments Received If comments are received, the City Planner shall, within 30 calendar days of the close of the review period, review the comments and, after giving them consideration, make one of the following determinations:
 - (1) Negative Declaration That the Negative Declaration should be accepted as complete because the comments do not provide the basis for requiring an EIR or recirculation of the Negative Declaration as outlined below. The City Planner may, however, make minor revisions in the Negative Declaration and Initial Study in response to comments received (not substantial revisions) before accepting it as complete. The City may use a “response to comment” format to clarify the reasons for accepting the Negative Declaration as complete; or
 - (2) Recirculate Negative Declaration If the Negative Declaration (including the project description and/or any recommended mitigation measures), must be substantially revised in response to comments received during the review period, the revised document may need to be recirculated for another public review period pursuant to State Guidelines Section 15073.5. Substantial revision includes cases where there is recognition of a new, avoidable significant effect with mitigation measures or project revisions that must be added in order to reduce the effect to a level that is less than significant, or where the City determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significant levels and, therefore, new measures or revisions must be required; or
 - (3) EIR That an EIR should be prepared because comments have fairly argued that, on the basis of substantial evidence, the project may have a significant effect on the environment that will not be adequately avoided or mitigated; or comments indicated that there is serious public controversy concerning the environmental effects of the project. (Controversy not related to an environmental issue does not require the preparation of an EIR.).
- (C) Notify Applicant The City Planner shall notify the applicant of the determination to either: require an EIR; accept the Negative Declaration as complete; or recirculate a revised Negative Declaration.
- (D) Approval of the Negative Declaration or Mitigated Negative Declaration
For the purposes of these Local Guidelines, the decision-making body shall be the Planning Commission, the City Council, or a designee of

the Council. Before approving a project for which a Negative Declaration or Mitigated Negative Declaration (and associated Mitigation Monitoring Program) have been prepared, the decision-making body shall review and consider and adopt or deny the Negative Declaration. The final decision-making body shall make the final determination as to the disposition of the CEQA document (e.g., in the case of an appeal being made to the City Council on a project decision made by the Planning Commission).

- (E) Appeal An appeal of this decision may be filed pursuant to Section 11.0 of these Local Guidelines.
- (F) Timely Compliance A Negative Declaration shall be completed and adopted not more than 180 calendar days after an application has been accepted as complete (Section 15107), except in the following instances and as otherwise allowed by law:
 - (1) The time period has been suspended because of unreasonable delay caused by the applicant, especially in providing needed information to complete the review process or paying related costs (Section 15109);
 - (2) Where a project is also subject to the National Environmental Policy Act (NEPA). (See Section 15110 of the State Guidelines concerning projects for which a combined NEPA review is required);
 - (3) Where the project requires approval of other applications not subject to statutory deadlines such as related legislative actions (e.g., general plan amendments, rezoning, annexations and sphere of influence amendments)(Section 15110); or
 - (4) When the applicant requests a time extension pursuant to CEQA Sections 21100.2 and 21151.5 of the Public Resources Code. Under this provision an extension may be granted for a maximum of six months after an application is deemed complete. The applicant may, in this case and under certain circumstances, request a waiver of the 180-day time period for a Negative Declaration.
- (G) Notice of Determination After the decision-making body has made a decision to carry out a project for which a Negative Declaration or Mitigated Negative Declaration has been approved, the staff planner shall, as soon as possible but no later than 5 calendar days following approval of the project, prepare a Notice of Determination (Appendix D) in accordance with Section 15075 or 15094 of the State Guidelines. Staff shall file the NOD with the county clerk for all projects approved by the City. The applicant shall be responsible for paying all filing fees, including Department of Fish and Game fees if applicable, at the time the notice is filed. The project will not be operative, vested or final until the filing of the Notice of Determination with the county clerk. If the project requires a discretionary approval from any state agency, the City will also file the NOD with the Office of Planning and Research (OPR) in the State

Clearinghouse. The State encourages the City to post notices in electronic form on its website.

(CCO-08-02)

18.95.120 Environmental Impact Report Process The following guidelines address the process of preparing an EIR when it is determined to be the necessary CEQA document for the proposed project.

- (A) Consultant Services If it is determined that the City does not have the staff resources, or that it is otherwise beneficial for the City, for the purpose of completing an EIR, the City may hire a consultant or consultants to prepare the document. The cost of the consultant services shall be borne by the applicant and paid for out of an account maintained by the City for the project pursuant to the City's cost recovery program.
- (B) Notice of Preparation At the time it is determined that an EIR is required, the City shall complete and distribute a Notice of Preparation (NOP) for distribution to OPR, trustee and responsible agencies, any federal agencies involved in approving or funding the project, City departments and nearby cities and counties (if affected by the project), and begin consultations with the applicant and qualified consultants as provided by Sections 15082 of the State Guidelines. (See Appendix E of these Local Guidelines.)
- (C) Contents The NOP shall be sent by certified mail and shall contain the following:
 - (1) Description of the project.
 - (2) Location of the project.
 - (3) Probable environmental effects of the project. (If an Initial Study has been prepared for the project, it should be sent with the NOP.)
- (D) State Clearinghouse When one or more state agencies will be a responsible agency or trustee agency, the City shall send an NOP to the State Clearinghouse at OPR. OPR will then assign an identification number (i.e., the State Clearinghouse number) for the EIR.
- (E) Response to Notice of Preparation Within 30 days after receiving the Notice of Preparation, each trustee agency, responsible agency, applicable federal agency, City department and affected cities or counties will be expected to provide the City with a statement concerning whether the agency will be a responsible agency or trustee agency for the project, and provide specific detail about the scope and content of the environmental information that should be included in the Draft EIR, relative to the responsible agency's area of statutory responsibility. The response should identify significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency will need to have evaluated in the Draft EIR. If the recipients of the NOP fail by the end of the 30- day period to provide the City with either a response to the notice or a well-justified request for additional time, the city may presume that the recipients have no response to make.
- (F) Scoping Meetings The City, a responsible agency, a trustee agency or the applicant may request one or more meetings to assist the

City in determining the scope and content of the environmental information that the responsible agencies or trustee agencies may require. Such meetings shall be convened by the City within 30 days after the meetings are requested. (Section State Guidelines Section 15082(c).)

- (G) Early Public Consultation During the NOP timeframe, the City may hold a public meeting as part of the scoping process. As noted in the State CEQA Guidelines, “Many public agencies have found that early consultation solves many potential problems that would arise in more serious forms later in the review process.” (Section 15083) Also, “Scoping has been helpful to agencies in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an EIR, and in eliminating from detailed study issues found not to be important.”
- (H) Scope of EIR Based on the results of the Initial Study, and/or information received in response to the NOP, scoping meetings, and other review of the project, the Planning Department shall determine the scope of the EIR. The scope shall include a listing of all technical reports (e.g., traffic, noise, biology, etc.) as well as any other special analyses that will be required. The scope should be written in a narrative rather than a checklist format to make it clear and easy to understand.

(CCO-08-02)

18.95.130 Preparation of the Draft EIR

- (A) Drafting the EIR City staff, or the City’s consultant under the direction of the project planner, shall prepare the Draft EIR in consultation with the Responsible and Trustee agencies.
- (B) Costs of Preparation Costs associated with the preparation, printing, and distribution of EIR's and addenda and supplements for private projects shall be borne by the applicant. Prior to the City contracting with a consultant to prepare the EIR, the applicant shall deposit funds with the City pursuant to the City’s cost recovery procedures sufficient to pay for the required EIR. These funds shall be placed in a City account and released by the City to the EIR consultant according to the cost recovery process of the City. The applicant shall also be required to compensate for the additional City staff time required to review the document and administer the EIR process.
- (C) Contents and Format The EIR shall contain all of the elements specified in Sections 15120 through 15132 of the State Guidelines for Draft EIR's (and/or Sections 15160 to 15179.5 of the State Guidelines for Subsequent, Supplemental, Addendum, Staged, Program and Master EIR's), and any additional information required by the City. The EIR may also contain additional studies and/or requirements as noted in the Initial Study that are pertinent to the project. In some cases, the EIR may be limited to focused items, also as identified in the Initial Study. (Refer to Section 5 of these Local Guidelines).

(CCO-08-02)

18.95.140 Processing the Draft EIR (Including Subsequent and Supplemental EIRs)

- (A) Administrative Draft EIR If prepared by a consultant, the consultant shall submit an administrative Draft EIR (which may be an electronic “screencheck” version if authorized by the City) for review by the staff planner within the time allowed by the EIR contract. The consultant shall revise the Administrative Draft EIR as directed by the City and shall generally submit the revised Draft EIR within two weeks of receipt of comments from staff. Additional time may be needed to resolve technical issues.
- (B) Notice of Completion (NOC) and Notice of Availability (NOA) As soon as the Planning Department determines that the Draft EIR is properly completed and is ready for distribution and processing, the City shall complete an NOC and Notice of Availability and file it with the Office of Planning Research (OPR) in accordance with Section 15085 of the State Guidelines and shall mail a copy to the Applicant. (See Appendix F of these Local Guidelines.)
- (C) Public Notice Planning staff shall provide public notice of the completion of the Draft EIR in accordance with Section 15087 of the State Guidelines at the same time the Notice of Completion is filed. CEQA provides that public notice stating that a Draft EIR has been completed and is available for public review (including places where the document is available and the time available for making comments) shall be mailed to all organizations and individuals who have previously requested such notice in writing, and by at least one of the following procedures:
- (1) Publication at least once in a newspaper with general circulation.
 - (2) Posting of notice on the city hall bulletin board and on the site where the project is proposed to be located.
 - (3) Direct mailing to the owners and occupants of property contiguous to the parcel and parcels on which the project is based. Owners of such property shall be identified as shown on the latest equalized assessment roll.
 - (4) The alternatives for providing public notice outlined herein shall not preclude the City from providing additional notice by other means if the City so desires, nor shall the requirement of this section preclude the City from providing the public notice at the same time and in the same manner as public notice required by any other laws for the project.
- (D) Distribution The Planning Department shall distribute the Draft EIR when complete and shall request written comments during the review period, as provided in Section 15086 of the State Guidelines, as follows:
- (1) Responsible agencies and trustee agencies with resources affected by the project, and any other state agency which has jurisdiction by law with respect to the project or which exercises authority over resources that may be affected by the project. The City shall use the State Clearinghouse to distribute draft EIRs to state agencies for review.

- (2) Any other federal or local agency which has jurisdiction by law with respect to the project or which exercises authority over resources which may be affected by the project.
- (3) Copies shall be distributed to the applicant, members of the advisory and decision-making bodies for the project, City project staff, and other appropriate staff.
- (4) Copies of the Draft EIR shall be made available for review by the public at the library in the City of Mt. Shasta, and at the City Planning Department where loan copies shall be available. The City may establish and charge a cost recovery fee for copies of an EIR for purchase by individuals or organizations, not to exceed the actual cost of reproduction. Electronic (CD) versions should be used as much as possible to reduce reproduction costs.
- (E) Review The review period for the Draft EIR shall begin following the distribution of public notices and Draft EIR documents by the staff planner, and shall be not less than 45 days (unless the State Clearinghouse approves a shorter time period), nor longer than 90 days.
- (F) The City may hold a public meeting to receive input in review of a Draft EIR.
- (G) Evaluation of Comments and Preparation of Responses As comments are received, the Planning Department, and/or EIR consultant in consultation with the Planning Department, shall evaluate the comments and have responses prepared. The EIR consultant, under advisement of the Planning Department, may draft such responses. Responses to comments from public agencies shall be sent to the commenting agency at the end of the public review period. Comments and responses to comments shall be included in the Final EIR as per Sections 15088 and 15132 of the State Guidelines. Such responses to comments shall address comments and questions and make reference to the Draft EIR where appropriate. If significant new information is added to the EIR, the EIR may need to be recirculated as required by Section 15088.5 of the State Guidelines.

(CCO-08-02)

18.95.150 Preparation And Processing Of The Final EIR

- (A) Preparation City staff, or the EIR consultant in consultation with the Planning Department, shall prepare a proposed Final EIR. Cost of preparation shall be borne by the applicant.
- (B) Contents The contents of the proposed Final EIR shall be as specified by Sections 15132 of the State Guidelines and as required by the City to respond to comments.
- (C) Format Generally, received comments shall be attached to the Draft EIR with responses to those comments. However, where the Planning Department determines that responses to comments will require numerous or substantial revisions to the Draft EIR text, they may be entered into the text of the existing Draft EIR text to comprise the Final EIR.
- (D) Distribution The staff planner shall distribute the proposed Final EIR as soon as complete to the advisory or decision-making body holding

meetings on the project. The proposed final EIR will also be made available for public review at the Planning Department.

- (E) Checklist for Processing the EIR The staff planner shall maintain a checklist in the main project file to document processing steps of the EIR, such as dates of issuance of the Notice of Preparation, request for proposals to hire a consultant, execution of the consultant's contracts, completion of the Draft and Final EIR, and issuance of the Notice of Determination.
- (F) Action If the action is to approve the project, the decision-making body: 1) certifies the EIR, 2) approves the project, 3) adopts findings on the feasibility of reducing or avoiding significant environmental effects, and 4) adopts the related mitigation monitoring measures. (See Section 9.3 and 9.4 below concerning various actions and related findings that are, in part, dependent on whether the Planning Commission acts in an advisory or decision-making capacity.) If the action is to deny the project, the decision-making body is not required to certify the EIR or adopt findings concerning significant environmental effects.
- (G) Appeal An appeal of a decision by the Planning Commission to certify a final EIR may be filed pursuant to Section 11.0 of these Local Guidelines.
- (H) Recirculation of an EIR Prior to Certification The City may need to recirculate an EIR or portions of an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified. Refer to State CEQA Guidelines Section 15088.5 for a complete description of requirements for recirculation of an EIR.

(CCO-08-02)

18.95.160 Addendum To An EIR

- (A) Preparation An Addendum to a previously certified EIR may be necessary if minor technical changes or additions to the project are needed, but none of the changes have significant impacts, and none of the conditions described in State Guidelines Section 15162 calling for a Supplemental EIR or Subsequent EIR have occurred. An addendum need not be circulated for public review but can be included in or attached to the Final EIR.
- (B) Distribution/Processing The Planning Department may distribute an Addendum to an EIR to any agency or individual they feel is appropriate

to review the document. If the staff planner finds the Addendum material to be significant, the revision shall be processed as a Supplemental or a Subsequent EIR consistent with Section 7.5 of these Local Guidelines. Circulation of an Addendum is not required, but should be accomplished if there are agencies with expertise that could provide input on its contents. Copies shall also be transmitted to members of the advisory and decision-making bodies for the project, the City Manager, City project staff, and the applicant.

- (C) Notice of Determination After the decision-making body has made a decision to carry out a project for which an EIR (or a Supplemental EIR, Subsequent EIR, an Addendum to an EIR or previous EIR) has been approved or certified, the staff planner shall, as soon as possible but no later than 5 calendar days following approval of the project, prepare a Notice of Determination (Appendix D) in accordance with Section 15075 or 15094 of the State Guidelines. Staff shall file the NOD with the county clerk for all projects proposed by the City. The applicant shall be responsible for paying all filing fees, including Department of Fish and Game fees if applicable, at the time the notice is filed. The project will not be operative, vested or final until the filing of the Notice of Determination with the county clerk. If the project requires a discretionary approval from any state agency the City will also file the NOD with the State Clearinghouse. The State encourages cities to post notices in electronic form on its website.

(CCO-08-02)

18.95.170 Staged And Program Environmental Impact Report Process

- (A) General A program (or staged) EIR is one that may be prepared for a series of actions that can be characterized as one large project, expected to be built over a long period of time, and that meet the requirements of Sections 15167 and 15168 of the State Guidelines.
- (B) Public Notices Subsequent activities that are proposed under Staged or Program EIR's must be examined with an Initial Study to determine if an additional environmental document is necessary. The City shall comply with State Guidelines Section 15167 in processing a staged EIR and Section 15168 in processing a Program EIR. If no new effects could occur or no new mitigation measures are required pursuant to Section 15162 of the State Guidelines, no new environmental document may be required. Public notice shall be given when the City proposes to approve an activity within the program and to rely on the program EIR for CEQA compliance.

(CCO-08-02)

18.95.180 Project Review Process

- (A) General To the extent possible, processing of project applications by staff, advisory and decision-making bodies shall continue during preparation and review of environmental documents, short of project approval by the decision-making body.

- (B) Public Notices All public notices that are normally used as part of the decision-making process shall note the existence of an environmental document and shall state where the document is available for public inspection. For projects that will rely on a program EIR for CEQA compliance, notice will include statements that the activity is within the scope of the Program EIR approved earlier, and the program EIR adequately describes the activity for the purposes of CEQA (see Section 15168 (e) of the State Guidelines).
- (C) Consideration of Environmental Documents by Advisory Bodies The Planning Commission is the primary advisory body in terms of the City's CEQA-related projects. The role of the advisory body is for the body to provide comments, as appropriate, during the public review period so the comments may be made part of the final environmental document to be considered by the decision-making body. Significant environmental issues raised by the advisory body require the Planning Department to provide appropriate responses for their review and consideration in the final environmental document.
- (D) Consideration of Environmental Documents by Decision-Making Bodies
- (1) General For the purposes of these Local Guidelines, the decision-making body shall be the Planning Commission, the City Council, or a designee of the Council, depending on the authority delegated by the Council for particular actions. Prior to approval or disapproval of a project, the decision-making body shall review and certify the CEQA document along with information contained in the final environmental document, together with any comments received during the public review process.
- (2) Exempt Projects For projects that are initially found to be exempt from CEQA, the following shall apply:
- (a) The decision-making body shall make the following finding in approving the project: "That the project is exempt from CEQA because (stated basis for exemption)".
- (b) However, the decision-making body may conclude, after further consideration of a project, that use of a CEQA exemption is not supported by the facts and, therefore, may disapprove the exemption. In such cases, the staff planner shall immediately proceed with an Initial Study or EIR for the project. (See Section 5.0 of these Local Guidelines.)
- (3) Projects with Negative Declarations For projects with Negative Declarations, the following shall apply:
- (a) The Draft Negative Declaration shall be completed and approved within 180 days of the date that the application was certified as complete.
- (b) The decision-making body shall make one of the following findings as part of approving the project: "A Negative Declaration (or Mitigated Negative Declaration) has been prepared and considered according to CEQA and (either):

1. It is found that the project will not have a significant effect on the environment; or
2. It is found that, although the proposed project may have a significant effect on the environment, there will not be a significant effect in this case because of the mitigation measures specified in the Negative Declaration and added to the description of the project. However, the decision-making body may conclude, after further consideration of a project, that the use of a Negative Declaration is not supported by the facts, or that there is serious public controversy concerning the environmental effects of the project and, therefore, may either 1) direct that the Initial Study be revised to reevaluate the project and issues of concern, or 2) disapprove the Negative Declaration. In such an event, the staff planner shall immediately proceed with preparation of an EIR (See Section 7.0.).

(E) Projects with Previous Environmental Documentation For projects with a previous environmental document, the following shall apply:

- (1) The decision-making body shall make the appropriate findings in accordance with Sections 15153 and 15091 and 15093 of the State Guidelines, if necessary.
- (2) The decision-making body may conclude that the previous environmental document is not adequate for the project under the criteria of the above mentioned sections of the Guidelines. In such an event, a majority of the decision-making body shall also determine whether a Negative Declaration or an additional EIR shall be prepared.

(F) Projects with an EIR (including a Supplemental EIR or an Addendum to an EIR).

- (1) The Final EIR, or the Supplemental EIR or Addendum to an EIR, shall be completed and ready for approval and certification/final action on the project within one year of the date the application was certified as complete, or extended by waiver of deadline by the applicant as agreed to by the City Planner.
- (2) The decision-making body may conduct a public hearing on the Final EIR, Supplement or Addendum in accordance with State Guidelines Section 15202, concurrent with or before its hearing on the proposed project. No proposed Final, Supplemental, or Addendum EIR shall be considered for certification by a decision-making body unless consideration of the document has been properly placed on the agenda of the decision-making body and the public review period for the Draft EIR has ended. Significant environmental issues raised during these meetings and responses by the City shall be acknowledged for the record.

(G) Findings

- (1) For any project with a Final, Supplemental or Addendum EIR, the decision-making body shall make the following finding as part of any resolution approving the project: "That the Final EIR (or Supplement or Addendum) has been completed in compliance with CEQA and the State Guidelines and the City's procedures, and that the decision-making body having final approval authority over the project has reviewed and considered the information contained in the EIR (or the Supplement or Addendum) and found that it adequately addresses the environmental effects of the proposed project.
- (2) Findings pursuant to State CEQA Guidelines Section 15091: The decision-making body may approve a project for which one or more significant effects have been identified upon making certain findings that either: 1) the impact has been substantially lessened through changes in the project; 2) the changes in the project are the responsibility of a public agency other than the agency making the finding; and/or 3) the mitigation measures or project alternatives are infeasible. (See Section 15091 of the State Guidelines).
- (H) Statement of Overriding Considerations Where the decision-making body allows the occurrence of significant effects that are identified in the EIR, in which case the impacts are not mitigated to a level that is less than significant, or where the City can not guarantee that mitigation measures that are under the authority of another agency will be implemented to reduce said impacts to levels that are less than significant, the decision-making body must adopt a Statement of Overriding Considerations in accordance with State Guidelines Section 15093.

(CCO-08-02)

18.95.190 Procedures For The City As A Responsible Agency

- (A) General This section identifies the special duties of the City when acting as a Responsible Agency under the provision of State Guidelines Section 15096.
- (B) Response to Consultation The City Planner or his/her representative shall respond to consultation requests by a Lead Agency according to State Guidelines Section 15096(b).
- (C) Meetings The City Planner or his/her representative shall attend meetings requested by the Lead Agency as provided in State Guidelines Section 15096(c), and may request such a meeting to address potential impacts that may affect the City's interests.
- (D) Comments on Draft EIR's and Negative Declarations The City Planner or his/her representative should review and comment on Draft EIR's and Negative Declarations as provided by State Guidelines Section 15096. Where he/she feels appropriate, he/she may place the document on the agenda of the Planning Commission for public review and comment and/or, upon consent of the City Manager, refer the item for review by the City Council. Copies of the City's comments sent to the Lead Agency will

be provided to the City Manager and appropriate City Departments and bodies.

- (E) Notice of Determination When the City takes an action to approve a project for which another agency was the Lead Agency, the City shall file a Notice of Determination in the manner provided under section 7.8 of these Local Guidelines and Section 15096(i) of the State Guidelines.

(CCO-08-02)

18.95.200 Appeal Process

- (A) A decision made by City Planning Department staff concerning implementation of and compliance with CEQA may be appealed to the Planning Commission. A decision made by the Planning Commission concerning implementation of and compliance with CEQA may be appealed to the City Council. In both cases, any such appeal shall be made pursuant to the appeal process established in the Mt. Shasta Municipal Land Development Code.
- (B) An appeal of a final decision by the City Council concerning implementation of and compliance with CEQA may be undertaken by filing appropriate litigation in a court of competent jurisdiction within legal time limits. CEQA Guidelines Section 15112(a) note that CEQA provides strict statute of limitations on filing court challenges to the approval of projects under the act.

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18.95.210 Mitigation Monitoring

- (A) General The Mitigation Monitoring process is intended to: 1) Ensure that required mitigation measures are implemented; 2) Allow the City and interested citizens to verify compliance before, during and after project construction; and 3) Generate information on the effectiveness of mitigation measures to improve their effectiveness in future applications.
- (B) Applicability The mitigation monitoring program is established to comply with Section 15097 of the State Guidelines when findings have been made pursuant to Section 15091 (where an EIR was approved with significant effects and changes to the project have been required to avoid or lessen the significant environmental effects identified in the EIR), or when a Mitigated Negative Declaration was adopted in conjunction with approving a project.

Mitigation monitoring shall be required for all non-exempt discretionary projects for which mitigation measures have been identified through a Negative Declaration, Environmental Impact Report, or Supplemental reports.

- (C) Procedures
 - (1) Mitigation Monitoring Checklist The City shall ensure that project revisions and mitigation measures are implemented by

adopting a program for monitoring and reporting on the revisions that the City has required in the project, and the measures the City has imposed to mitigate or avoid significant environmental effects.

After a non-exempt discretionary project is approved with conditions of approval that includes mitigation measures identified through a Negative Declaration, EIR or supplement, these mitigation measures shall be incorporated into a checklist. Each measure will be identified separately on the checklist, with various spaces for monitoring the progress and effectiveness of each measure as it is implemented. This checklist is the basis of the monitoring program and a copy shall be distributed to all Departments that supplied mitigation measures for their use in monitoring.

The monitoring and reporting program and checklist shall contain sections addressing:

- (a) The relative responsibilities of various departments within the agency for various aspects of monitoring or reporting, including lead responsibility for administering typical programs and support responsibilities.
 - (b) The responsibilities of the project applicant.
 - (c) Agency guidelines for preparing monitoring or reporting programs.
 - (d) General standards for determining project compliance with the mitigation measures or revisions and related conditions of approval.
 - (e) Enforcement procedures for noncompliance, including provisions for administrative appeal.
 - (f) A process for informing staff and decision-makers of the relative success of mitigation measures and using those results to improve future mitigation measures.
- (2) Monitoring Program In most cases, mitigation measures can be monitored through the City's plan check process. Therefore, when an approved project with mitigation measures is submitted for plan check through the City, the plan checker will have a copy of the monitoring checklist. As the plan checker reviews the plans, the plans will be checked for compliance with each mitigation measure.
- (3) Project Design Mitigation Measures A project design mitigation measure is one that is to be incorporated into project design to mitigate an impact, such as the provision of a retention basin or acoustical barrier. These mitigation measures will normally be shown on the building plans. These plans will be reviewed for each specific mitigation measure and, as each mitigation measure is shown, it will be noted on the Checklist and

signed off. If a mitigation measure is not shown, the plans will be sent back for corrections. Plans will not be approved until each project design mitigation measure has been incorporated into the project design. After the plans are approved, and before final inspection of the building for occupancy, the project proponent shall submit proof that each mitigation measure shown on the plans has been installed or incorporated into the constructed project. Verification of compliance will then be noted on the monitoring form and signed off, thereby completing the process for a particular mitigation measure.

- (4) Pre-construction Mitigation Measures Pre-construction mitigation measures typically require that specific actions (such as a survey for the possible occurrence of a special-status wildlife species) be conducted prior to site disturbance. Monitoring needs to verify that the pre-construction survey was conducted as specified in the CEQA document and that the findings and recommendations, if any, of the survey are considered in permitting construction to commence. The findings and recommendations of the survey may alter the schedule of allowing work to proceed, or may require remedial action before the site is further disturbed.
- (5) Ongoing Mitigation Measure An ongoing mitigation measure is one that is associated with the project over a period of time, such as dust control or maintenance of landscaping. Monitoring this type of mitigation measure will be similar to that of a project specific mitigation measure noted above, except that the status of each mitigation measure will be noted at various times until the measure (s) have been satisfactorily completed. (An example would be hydroseeding until a project is constructed.) The project proponent may be required to submit periodic reports on the status of these types of mitigation measures. The City may charge inspection fees or deduct the costs from an account maintained by the City for the project to defray the City's costs and/or the costs of the City's consultants for monitoring ongoing mitigation measures.
- (D) Outside Consultants The City may elect to contract with a consultant for cases in which compliance with mitigation measures requires specialized expertise, or is of the magnitude that City staff does not have sufficient resources to administer. The applicant will be required to pay for all costs of monitoring.
- (E) Other Agencies It will typically be the responsibility of other agencies to monitor mitigation measures requested or imposed by those agencies, including conditions of approval for permits administered by those agencies. The City shall notify those agencies of what mitigation measures of theirs have been included in the project approval. The agencies shall be asked to submit a proposed program to the City that

outlines their intended monitoring actions, and they shall be asked to inform the City in writing when their mitigation measures and/or permit conditions have obtained compliance.

- (F) Completed Mitigation Monitoring Checklists Completed mitigation monitoring forms shall be retained by the City in the project file, and they will be available for public review upon request.
- (G) Mitigation Monitoring Program Fees The City may charge and collect from the proponent of an approved project an amount to defray the actual costs to the City for monitoring mitigation measures for the project.

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