

BOARD OF SUPERVISORS
COUNTY OF DEL NORTE
STATE OF CALIFORNIA
ORDINANCE NO. 79-16

An Ordinance Creating A Title 17 Establishing Guidelines and Procedures For Local Implementation of the California Environmental Quality Act of 1970 To Be Known As the Environmental Guidelines and Procedures Ordinance.

The Board of Supervisors of the County of Del Norte, do ordain as follows:

TITLE 17

Environmental Guidelines and Procedures Ordinance

Chapter 17.01 Authority

The Legislature of the State of California has enacted the California Environmental Quality Act of 1970 and pursuant to said Act the Secretary of the California Resources Agency has established regulations pertaining to the implementations of said Act requiring local agencies to adopt policies and procedures. Pursuant to the California Environmental Quality Act the Secretary of the Resources Agency has established guidelines, known as the State EIR Guidelines, for the orderly evaluation of projects and the preparation of environmental documents with which local procedures and regulations are to be consistent.

Chapter 17.02 Purpose

This ordinance is designed to enable the County to establish a method of reviewing projects for present and potential environmental impacts and to provide residents of the community and other interested parties an opportunity to review and comment on any environmental implications. The County as lead agency is to demonstrate to the community it has analyzed and considered environmental implications of a proposed project and balanced these concerns with other public objectives, including economic and social factors.

Chapter 17.03 Definitions

Whenever the following words are used within this ordinance, they shall have the meaning ascribed to them in this article. For an expanded listing of commonly used wording refer to the EIR Guidelines (Section 15020 of the California Administrative Code).

- A. CEQA California Environmental Quality Act of 1970 as amended by subsequent action of the state legislature.
- B. Categorical Exemption - An exception from the requirements of CEQA for classes of projects which do not have a significant effect on the environment. Article 8 Section 15100 of the State EIR Guidelines list those items determined by the Secretary for Resources which are exempt.
- C. Emergency - Means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- D. Environment - The conditions which exist within the area which will be affected by a proposed project including but not limited to land, air, water, flora fauna, ambient noise, objects of historic significance, and social and economic conditions.

- E. Environmental Documents - Includes draft and final EIRs, Negative Declarations, Initial Study Information Form, Environmental Checklist Initial Study, Expanded Initial Study, Notice of Completion, Notice of Exemption and Notice of Determination. A staff report may also be included as an environmental document in action by the lead agency.
- F. Environmental Checklist Initial Study - Used for preliminary analysis by the Environmental Review Committee to determine the appropriate document to be prepared for environmental review.
- G. EIR Environmental Impact Report.
- H. Draft EIR Contains a description of the subject project, the environmental setting, the anticipated environmental impacts, mitigation measures and alternatives. The Planning Department shall provide a description of contents of EIRs.
- I. Final EIR A final EIR is a draft EIR which contains comments received in the review process, a list of persons commenting and the response to these comments. (See Section 15146 of the State Guidelines.)
- J. Expanded Initial Study - A document which provides responses to an Initial Study so that potential adverse effects are mitigated to a point where no significant environmental effects occur.
- K. Environmental Review Committee (ERC) - Means the committee which reviews and makes recommendations to the "Advisory Lead Agency". The ERC shall be made up of the following members or their delegated representatives:
- 1) The County Planner who shall act as chairman-secretary to the Committee
 - 2) The Director of Public Works
 - 3) The Chief Building Inspector
 - 4) The County Assessor
 - 5) The Agricultural Commissioner
 - 6) A representative of Local Native Americans
 - 7) The County Sanitarian
 - 8) A member of the general public appointed by the Board of Supervisors and paid an amount equivalent to a Planning Commissioner.
- The ERC shall meet at the time and place designated by either the chairman, the Planning Commission, or the Board of Supervisors. A quorum is five voting members.
- L. Lead Agency - The public agency which has the principal responsibility for carrying out or approving the project. The Planning Commission is the lead agency on subdivisions, use permits, zoning, general plan amendments and all other projects acted upon by the Commission. In some instances the Board of Supervisors is the lead agency when a project is acted upon by the Board which has not been reviewed by the Planning Commission.

- M. Negative Declaration - A written statement by the County that a project will not have a significant adverse effect on the environment.
- N. Notice of Completion - A notice filed by the County when a draft EIR is completed and sent out for review.
- O. Notice of Determination - A brief notice filed by the County when it approves or denies a project which is subject to the requirements of CEQA.
- P. Notice of Exemption - A brief notice which may be filed by the County when it has approved or determined to carry out a project and has determined that the project is ministerial, categorically exempt, an emergency project or otherwise not regulated by this ordinance.
- Q. Person - Includes an individual, partnership, association, organization, business, trust, corporation or company.
- R. Project - Means the whole of an action resulting in impact(s) on the environment. Project includes the enactment and amendment of zoning ordinances and the amendment of the adopted General Plan and its elements. Project does not include each separate approval by the County or its agencies.
- S. Responsible Agency - Means a public agency which proposes to undertake or approve a project, but is not the lead agency for the project. This includes all agencies other than the County which have discretionary approval power over the project.
- T. Significant Effect - Is a substantial adverse impact on the environment.
- U. State Guidelines - Title 14 Division 6 Chapter 3 Section 15000 of the California Administrative Code. Also known as the State EIR Guidelines published in the EIR Monitor.

Chapter 17.04 Application

The requirements set forth in these Guidelines apply to projects which may have a significant effect on the environment and which involve a discretionary action by the County. Where it can be reasonably concluded that an activity in question will not have a significant effect on the environment and the activity is not regulated by these requirements or the State Guidelines, then these regulations do not apply. Determination of applicability shall be administrative decisions made by the Planning Department.

- A. When the County or agency of the County plans to carry out a project which may have a significant effect on the environment, the County shall prepare or cause to be prepared an environmental document(s) for distribution and review.
- B. When a project with a potential significant environmental effect is to be carried out by a project proponent and is subject to discretionary action by the County or its agencies, the County shall prepare or cause to be prepared an environmental document(s). The applicant is required to supply

all data and information needed to fulfill requirements of these and the State Guidelines and to assist in the preparation of any environmental document(s).

- C. The County is responsible for the adequacy and objectivity of an EIR upon certification by the County.
- D. County projects which require state approval or financial aid of a State or Federal agency are regulated by Section 15061(c) of the State Guidelines.
- E. An applicant for a project which requires County review for environmental considerations shall be subject to the payment of reasonable fees to offset costs to the County.
- F. When a project requires both an EIR and a Federal EIS, the Environmental Impact Statement (EIS) may be substituted in lieu of all or any parts of the EIR required by these Guidelines, provided that the pertinent sections are compatible with these Guidelines.
- G. Multiple and Phased Projects - Where individual projects are part of a phased project and where the total activity comprises a project with potential significant environmental effect or commits the County to a larger project, a single EIR shall be prepared which addresses the ultimate project. Where one project is one of several similar projects of a public agency but is not deemed to be a part of a larger activity, the County may prepare or cause to be prepared one EIR for all projects or one for each project. In either case the County shall comment upon the cumulative effects.

Chapter 17.05 Lead Agency

Where a project is to be carried out or approved by more than one public agency, only one public agency shall be responsible for the preparation of environmental documents. That agency shall be the Lead Agency. For complete details on Lead Agency designation see Sections 15064-15065.5 of State Guidelines. When more than one public agency is involved in undertaking or approving a project, the lead Agency shall consult with all responsible agencies (that is, all other public agencies involved in carrying out or approving the project) before completing a Draft EIR or Negative Declaration. Early consultation is designed to ensure that the EIR or Negative Declaration will reflect the concerns of all agencies which will issue approvals for the project. After completing the Draft EIR or Negative Declaration, the Lead Agency shall consult with other public agencies of jurisdiction and with persons having special expertise. The Planning Commission shall act as the primary lead agency for the County.

Chapter 17.06 Use of a Single Environmental Document

- A. The County may employ a single environmental document to describe more than one project if the projects are essentially the same in terms of environmental impact. Further, the County may use an environmental document prepared in connection with an earlier project if the circumstances of the projects are essentially the same. The County may elect to draft an environmental document in advance for entire programs or regulation in order to be prepared for future project applications. Whenever the County chooses to utilize any of these alternatives, it must find that the environmental effects of the projects are similar enough to warrant the same treatment in an EIR and that the EIR will adequately cover the impacts of any single project.

- B. Where an EIR or Negative Declaration has been prepared, no additional EIR or Negative Declaration shall be prepared unless substantial changes are proposed or have occurred, or new information becomes available which was not previously examined. (See Section 15067 of the State Guidelines.)
- C. Multiple, phased and staged projects may use a single EIR on a staged basis if the project complies with Sections 15069 and/or 15069.5 of the State Guidelines.

Chapter 17.07 Exempt Projects and Activities

Under the authority of CEQA and the State Guidelines certain projects and activities are exempt from the requirements for the preparation of Negative Declarations or EIRs. The following list is in addition to the section identified in the State Guidelines and those specific identified sections are considered to be inclusive additional items added by the County are found to be of a similar nature:

- A. Emergency Projects
Section 15071 State Guidelines
- B. Ministerial Projects
 - 1) Section 15073 State Guidelines
 - 2) Animal permits
 - 3) Use permits for mobilehomes
 - 4) Boundary adjustments
 - 5) Minor public works projects
 - 6) Issuance of temporary permits for parades, carnivals and other temporary assemblages
 - 7) Temporary retail sales of a limited duration
- C. Categorical Exemptions
 - 1) Class I Existing Facilities
Section 15101 State Guidelines
 - 2) Class II Replacement or Reconstruction
Section 15102 State Guidelines
 - 3) Class III New Construction of Small Structures
Section 15103 State Guidelines
 - 4) Class IV Minor Alterations to Land
Section 15104 State Guidelines
 - 5) Class V Alterations in Land Use Limitation
Section 15105 State Guidelines
 - 6) Class VI Information Collection
Section 15106 State Guidelines
 - 7) Class VII Action of Regulatory Agencies for Protection of Natural Resources
 - a) Section 15107 State Guidelines
 - b) Section 15108 State Guidelines
 - 8) Class VIII Inspections
Section 15109 State Guidelines
 - 9) Class IX Accessory Structures
Section 15111 State Guidelines
 - 10) Class X Other Actions of A Governmental Body
 - a) Section 15110 State Guidelines
 - b) Sections 15112 through 15124 State Guidelines

Chapter 17.08Fees

- A. The County may charge and collect a reasonable fee from project sponsors in order to recover the estimated costs incurred in processing and/or preparing environmental documents. These fees shall be set by policy action of the Board of Supervisors.
- B. The County may charge and collect a reasonable fee from the public for a copy of an environmental document, not to exceed the total cost of reproducing the copy.
- C. The County may charge and collect a reasonable fee from the public or project sponsor on any appeal to the Planning Commission or Board of Supervisors of a decision regarding an environmental document.

Chapter 17.09Procedures

- A. Prior to Formal Application - Persons who wish to pursue any project which may come under the jurisdiction of the lead agency, may discuss the potential requirements for environmental evaluation and review with the Planning Department. The Department will assist all such persons in reviewing County and State guidelines.
- B. Applications - As part of the initial application the project proponent shall submit as part of the application a completed information sheet and an initial study information form. These forms are to be supplied by the Planning Department.
- C. Environmental Review Committee
 - 1) The County shall require the most expedient form of environmental document sufficient to serve as an informational document, in the decision making process. Any project which does not qualify under Section 17.07 Exempt Projects and Activities, will be reviewed by ERC and a recommendation shall be forwarded to the lead agency on the proper environmental document required. ERC may also review exempt projects and activities for conformance to Section 17.07.
 - 2) ERC shall review an application by a project sponsor at its next regular meeting after submission of the application to the Planning Department. An application is not complete until all information sufficient for ERC to make a recommendation is submitted.
 - 3) The environmental checklist initial study shall be used by ERC to aid in determining what level of environmental document is to be required. If an EIR is required the checklist shall serve to focus the EIR on the relevant issues. The checklist may also be used by ERC to be addressed by the applicant in the form of an expanded initial study when additional information is required prior to acting on a recommendation for an environmental document. Expanded initial studies shall be reviewed by ERC for their adequacy prior to action by ERC on the environmental document.
 - 4) ERC shall forward to the lead agency and the applicant, in the form of summary minutes, its recommendation to the lead agency.

- D. Negative Declaration - A negative declaration shall be recommended to the lead agency for a project which could potentially have a significant effect on the environment but which ERC determines on the basis of an initial study will not have a significant effect on the environment.
- 1) If ERC determines that the project qualifies for a Negative Declaration, ERC shall prepare a Recommendation For Negative Declaration on a form on file in the Planning Department.
 - 2) A copy of the completed Recommendation For a Negative Declaration shall be filed with the Clerk of the Board, posted in the Courthouse, posted in the Public Works Building and a legal notice advertised in a newspaper of general circulation not less than 10 days before action by the lead agency on the environmental document and a decision on the project.
 - 3) Any comments received regarding the Negative Declaration prior to action by the lead agency shall be summarized and responded to and submitted to the decision making body prior to its action.
 - 4) Following a decision on the project a Notice of Determination (form on file in the Planning Department) shall be filed with the County Clerk and a copy retained in the appropriate file.
- E. Decision to Prepare an EIR - The preparation of an EIR shall be recommended to the lead agency when ERC determines that it can be fairly argued on the basis of its review that the project may have a significant effect on the environment or there may be serious public controversy concerning the environmental effects of the project. If the lead agency agrees that the project may have a significant effect on the environment or feels that public controversy warrants an EIR, the lead agency shall prepare or cause to be prepared, a draft EIR.
- F. EIR Process - When the lead agency decides that an EIR will be required for a project the following procedures shall be followed: (More detail is supplied in Section 15085 of the State Guidelines.)
- 1) After determining that an EIR will be prepared, the lead agency shall send a Notice of Preparation (a form on file in the Planning Department) to each responsible agency. This notice shall provide each agency an opportunity to comment during the EIR preparation.
 - 2) Upon completion of the draft EIR a Notice of Completion shall be filed with the State Secretary for the Resources Agency (a form on file in the Planning Department). Where a notice is required to be sent to the State Clearinghouse, no form is required for the Resources Agency. The Notice of Completion shall be forwarded to all organizations and individuals who have previously requested such notice and shall be published in a newspaper of general circulation in the affected area of the project.
 - 3) Upon completion of a draft EIR, the EIR shall be reviewed by the Planning Department and ERC for major errors and completeness. The person or persons who prepared the EIR shall be required to provide any additional information deemed necessary.

- 4) At the same time the Notice of Completion has been published, the draft EIR is released for public review and comment. One copy of the draft EIR shall be placed on file with the County Clerk and one copy shall be provided the local library. Copies shall be distributed to all known public agencies having jurisdiction by law or known to be affected by the project. Copies of the draft EIR shall also be made available to any person upon request at cost of reproduction.
- 5) A minimum period of thirty (30) days shall be allowed for review and submission of comments by public agencies, individuals and groups. All responses shall be directed to the Del Norte County Planning Department.
- 6) The review process shall focus on the adequacy of the EIR in discussing possible impacts upon the environment, ways in which adverse effects might be minimized, and the alternatives to the project in light of the intent of the CEQA to provide decision-makers with useful information about such factors.
- 7) At the end of the review period a legal notice shall be published in a newspaper of general circulation, describing the project and project area and stating the time and place at which a public hearing will be held by the lead agency to consider the draft EIR. Adjacent property owners shall be mailed a copy of the notice.
- 8) The public hearing shall be held by the lead agency at the posted time and place. The Planning Department shall present a summary of the comments received on the EIR, the responses to those comments and the recommendation of ERC. The hearing shall concentrate on significant environmental points raised in the review process and their disposition. The lead agency shall discuss and consider the comments received.
- 9) The draft EIR or its revision, comments received (either verbatim or in summary), a list of persons, organizations and agencies commenting and the responses to comments received, shall constitute the Final Environmental Impact Report.
- 10) If the hearing body of the lead agency finds that the Final EIR has been prepared and reviewed in compliance with this ordinance and CEQA, it shall certify the final EIR as adequate and has reviewed and considered the information contained in the EIR prior to action on the project. If this finding cannot be made the lead agency shall direct the redrafting of the EIR, require the preparation of additional information or addressing of the determined deficiencies and shall direct that the matter be set for a subsequent public hearing.
- 11) After acting on a project for which an EIR has been prepared, a Notice of Determination shall be filed with the County Clerk (on a form on file in the Planning Department) and a copy retained in the appropriate file.
- 12) If the subject project requires discretionary approval from a state agency, the process of preparation for Recommendation for Negative Declaration and EIRs shall be altered as follows:

- (a) A total of 15 copies shall be submitted along with a CA-189 form as supplied by the state to the State Clearinghouse for distribution. Comments received from the Clearinghouse will be incorporated into the review process and a response prepared.
- (b) A copy of the Notice of Determination shall be filed with the Secretary for the Resources.
- (c) The County may opt to submit copies of the environmental document to the responsible agency and deduct that number from those sent to the State Clearinghouse.

Chapter 17.10 Significant Effect

- A. If any of the effects of a project may have a substantial adverse impact on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an environmental impact report must be prepared where discretionary governmental action is involved.
- B. Both primary or direct, and secondary or indirect consequences, shall be considered. Primary consequences are immediately related to the project, while secondary consequences are related more to consequences on other than the project site itself.
- C. Where there is, or is anticipated to be, a substantial body of opinion that considers or will consider the effect to be adverse, an environmental impact report must be prepared to explore the environmental effects involved.
- D. In every case, where any of the following conditions are found to exist as a result of the project, the project shall be found to have significant impact on the environment:
 - 1) Impacts which have the potential to degrade the quality of the environment or curtail the range of the environment.
 - 2) Impacts which achieve short-term, to the disadvantage of long-term impact is one which occurs in a relatively brief, definable period. A long-term impact will endure well into the future.
 - 3) Impacts which are small on any one resource but which have substantial impact when all impacts are considered together.
 - 4) The environmental effects of the project will cause substantial adverse effects on human beings, either directly or indirectly.

Chapter 17.11 Statement of Overriding Considerations

CEQA requires the lead agency in the decision making process to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. When the lead agency approves a project which allows the occurrence of significant effects identified by the EIR without mitigation, the County must state in writing or in the minutes, the reasons to support its action based on the final EIR and any other information in the record.

Chapter 17.12 Contents of Draft EIRs

Draft EIRs shall comply with Article 9 Contents of Environmental Impact Reports of the State Guidelines. The Planning Department shall provide a written form to act as a guide in the preparation of draft EIRs to guide the consultant and/or applicant.

Chapter 17.13 Appeals

Any action by the County relating to the EIR process or its application may be appealed to the Planning Commission and from the Planning Commission to the Board of Supervisors. A fee may be charged for the filing of each appeal, the amount of which shall be set by policy action of the Board of Supervisors. The appeal shall clearly state the grounds on which the appeal is being taken and the relief sought. All procedures shall comply with Chapter 20.58 Appeals of the County's Zoning Ordinance.

Chapter 17.14 Compliance with Laws

These Guidelines are intended to implement the provisions of the CEQA and to implement the applicable provisions of the State Guidelines. These Guidelines shall be amended from time to time when amendments are mandated by the Courts, the State Legislature, and the Secretary for Resources and also when in the judgment of the Planning Commission and/or Board of Supervisors changes are required for carrying out the goals and purposes of the applicable laws.

Any decision to amend these Guidelines shall be made at a public hearing preceded by a legal notice published not less than ten (10) days prior to the hearing, containing information as to the time, date, place and subject matter of the hearing.

PASSED AND ADOPTED, by the Board of Supervisors,
County of Del Norte, State of California, this 12th day of
March, 1979, by the following polled vote:

AYES: Supervisors Justus, Crockett, Rupert, Cochran and
McClendon.

NOES: None.

ABSENT: None.


CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

JOHN D. ALEXANDER, County Clerk-Recorder
and ex-officio Clerk of the Board of
Supervisors, County of Del Norte,
State of California

By 
Deputy Clerk

BOOK 6 PAGE 271

ATTEST:

JOHN D. ALEXANDER, County Clerk-Recorder
and ex-officio Clerk of the Board of
Supervisors, County of Del Norte,
State of California

By Blanche Weirum
Deputy Clerk

Ordinance No. 79-16

BOOK 6 PAGE 272