

SEASIDE COUNTY SANITATION DISTRICT
ORDINANCE NO. 8

THE BOARD OF DIRECTORS OF THE SEASIDE COUNTY SANITATION
DISTRICT DOES ORDAIN AS FOLLOWS:

ARTICLE I

Policy and Purpose

Section 1. It is the policy of the Seaside County Sanitation District to develop, preserve and protect the urban and natural environment in accordance with the provisions of the California Environmental Quality Act of 1970 as amended.

Section 2. These Guidelines are adopted pursuant to the provisions of Section 21082 of the Public Resources Code of the State of California and are for the purpose of establishing objectives, criteria and procedures for the evaluation of projects and the preparation of environmental impact reports under CEQA in a manner consistent with State EIR Guidelines contained in Chapter 3, Division 6, of Title 14 (commencing with Section 15000) of the California Administrative Code as amended.

ARTICLE II

Definitions

Section 1. Unless the context otherwise requires, the following definitions shall govern these Guidelines:

(a) Applicant means a person who proposes to carry out a project.

(b) Approval of a project means the decision, either by the District or by administrative action, which commits the District to a definite course of action in regard to the project.

(c) CEQA means the California Environmental Quality Act of 1970, and amendments thereto, as set forth in California Public Resources Code Sections 21000 et seq.

(d) Categorical exemption means an exception from the requirements of CEQA for a class of projects based on a finding by the District Engineer that the class of projects does not have a significant effect on the environment.

(e) Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects.

(f) Discretionary project means an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of the District Board or on the part of the District Engineer in the process of approving or disapproving a particular activity, as distinguished from situations where it is only necessary to determine whether there has been conformity with applicable statutes, ordinances or regulations.

(g) District means the Seaside County Sanitation District.

(h) District Board means the Board of Directors of the Seaside County Sanitation District.

(i) District Engineer means the Engineer of the Seaside County Sanitation District.

(j) Emergency means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding action to prevent or mitigate loss of, or damage to, life, health, property,

or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

(k) Environment means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, objects of historic or aesthetic significance.

(l) Environmental documents means Draft and Final EIR's, Initial Studies, Negative Declarations, Notices of Completion and Notices of Determination.

(m) Environmental Impact Report or EIR means a detailed statement setting forth the environmental effects and considerations pertaining to a project as specified in Section 21100 of CEQA, and may mean either a Draft EIR or a Final EIR. Draft EIR means an EIR containing the information in Sections 15141, 15142, 15143, and 15144 of the State Guidelines. Final EIR means an EIR containing the information contained in the Draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the District's response to the comments received.

(n) Environmental Impact Statement or EIS means an environmental impact document prepared pursuant to the National Environmental Policy Act (NEPA).

(o) Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(p) Initial Study means a preliminary analysis prepared by the District Engineer to determine if the project may have a significant effect on the environment.

(q) Ministerial Project as a general rule includes those activities defined as projects which are undertaken or approved by a governmental decision which the District Engineer having jurisdiction makes upon a given set of facts in a prescribed manner in obedience to the mandate of legal authority. With these projects, the District Engineer must act upon the given facts without regard to his own judgment or opinion concerning the propriety or wisdom of the act although the statute, ordinance, or regulation may require, to some degree, a construction of its language by the officer. In summary, a ministerial decision involves only the use of fixed standards or objective measurements without personal judgment.

(r) Negative Declaration means a written statement prepared by the District Engineer and adopted by the Board briefly describing the reasons that a proposed project, although not otherwise exempt, will not have a significant effect on the environment and therefore does not require the preparation of an EIR.

(s) Notice of Completion means a brief notice to be filed by the City with the Secretary for Resources of the State of California as soon as it has completed a Draft EIR and is prepared to send out copies for review.

(t) Notice of Determination means a brief notice to be filed by District with the Clerk of Monterey County after the decision of District to approve or disapprove a project has been made.

(u) Person includes any person, firm, association, organization, partnership, business, trust, corporation, company, or public agency.

(v) Preliminary evaluation means a written report prepared by the lead agency to determine whether an application, plan or public works expenditure is a project, ministerially exempt, categorically exempt or exempt for emergency reasons or whether an initial study or EIR must be prepared.

(w) Preliminary finding means a written report based on or part of the preliminary evaluation that states whether a project is exempt or an initial study or EIR must be prepared.

(x) Project means the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately, that is any of the following:

- (1) An activity directly undertaken by the District or any public agency, including but not limited to public works construction and related activities, clearing or grading of land, and the improvements to existing public structures.
- (2) An activity undertaken by a person which is supported in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from the District.

The term project refers to the underlying activity and not to the governmental approval process. It does not include anything specifically exempted by state law, or emergency repairs to public service facilities necessary to maintain service.

(y) Significant effect on the environment means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the activity, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

(z) State Guidelines means the regulations adopted by the California Resources Agency set forth in Chapter 3, Division 6, Title 14 (commencing with Section 15000) of the California Administrative Code as amended.

ARTICLE III

Actions Required

Section 1. The Board shall make all findings and determinations required by this Resolution except as hereinafter provided. It shall make all findings, determinations, and reports required by CEQA or the Guidelines when the District is determined to be the lead agency. It shall make any required determinations as to whether a project, otherwise exempt, may have a significant effect upon the environment.

Section 2. The District Engineer shall have full authority to prepare or cause to be prepared by contract or otherwise any environmental document. He shall be responsible for implementing procedures for review of environmental documents submitted to the District by other public entities or jurisdictions.

Section 3. The District Engineer shall also have the authority to find and determine that projects executed by the District are exempt under ARTICLE V.

Section 4. Preparation of Environmental Documents.

When the District plans to carry out or to approve or give financial support to a project which is subject to CEQA, which may have a significant effect on the environment, the EIR or Negative Declaration for the project shall be prepared directly by, or under contract to, the District, except in cases where the District is not the lead agency. The Draft EIR or Negative Declaration which is sent out for public review must reflect the independent judgment of the District.

Section 5. Criteria for Preliminary Finding: In evaluating projects for exemption, the project must be found to have a significant effect on the environment if the project will result in creating any of the following impacts to a significant degree:

(a) The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or 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 a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

(b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(c) The project has possible environmental effects which are individually limited but cumulatively considerable. As used in the subsection, "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.

(d) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

ARTICLE IV

Exemptions

Section 1. Ministerial Projects. Ministerial projects are exempt from the requirements of CEQA. Unless the District Engineer shall specifically find otherwise in a particular case, the following actions will be considered to be ministerial in nature:

(a) The lease of District property which does not involve significant construction or change of use.

(b) Issuance of permits and entitlements for other activities occasional in nature, which are regulated by District ordinance or resolution.

(c) Any lease, permit, or other entitlement which pertains to a project which is either categorically exempt or for which a Negative Declaration, EIR, or EIS has been filed and has become final.

Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Section 2. Categorical Exemption. Attached hereto as Appendix A and incorporated herein by reference is a list of classes of projects which the Secretary for Resources of the State of California has determined not to have a significant effect on the environment and has declared in the State Guidelines (Sections 15100 to 15116, inclusive) to be categorically exempt from the provisions of CEQA. (NOTE: Only the Secretary for Resources may determine categorical exemptions.)

Section 3. Emergency Exemptions. The following are emergency projects exempt from the requirements of CEQA, and no EIR is required:

(a) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as the result of a disaster in a disaster stricken area in which a state of emergency has been declared by the Governor.

(b) Emergency repairs to public facilities necessary to maintain service.

(c) Specific actions necessary to prevent or mitigate an emergency. This includes the correction of a defective condition of which the District has notice and where there is a substantial risk of liability if the condition is not immediately corrected.

Section 4. Feasibility and Planning Studies. A project involving only feasibility or planning studies for possible future actions which the District has not approved, adopted, or funded does not require the preparation of an EIR, but does require consideration of environmental factors.

Section 5. EIS Exemption. Any project for which an EIS has been prepared and filed in accordance with NEPA where, in determination of the District Engineer, said EIS meets or has been supplemented to meet the requirements of CEQA.

Section 6. Pre-existing Projects. Any project which started prior to 1970 which has a continuous history of exemption from CEQA.

ARTICLE V

Evaluating Projects

Section 1. Initial Studies. If a project is subject to CEQA and is not exempted by these Guidelines, the District Engineer shall conduct an initial study. If the Board determines from the initial study that any aspects of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an EIR must be prepared. All phases of project planning, implementation and operation must be considered in the Initial Study of the project. To meet the requirements of this section, an Initial Study prepared pursuant to the National Environmental Policy Act may be used.

Section 2. Purposes of Initial Study. The purposes of an Initial Study are to:

- (a) Identify environmental impacts.
- (b) Enable the District to modify a project, mitigating adverse effects before an EIR is written.
- (c) Focus an EIR, if one is required, on potentially significant environmental effects.

(d) Facilitate environmental assessment early in the design of a project.

(e) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment.

(f) Eliminate unnecessary EIR's.

Section 3. Contents of Initial Study. An Initial Study shall contain in brief form:

(a) A description of the project.

(b) An identification of the environmental setting.

(c) An identification of environmental effects by use of a checklist, matrix, or other method.

(d) A discussion of ways to mitigate the significant effects identified, if any.

(e) An examination of whether the project is compatible with existing zoning and plans.

(f) The name of the person or persons who prepared or participated in the Initial Study.

Section 4. Uses of Initial Study. The Initial Study shall be used to provide a written determination of whether a Negative Declaration or an EIR shall be prepared for a project. Where a project is revised in response to an Initial Study so that potential adverse effects are mitigated to a point where no significant environmental effects would occur, a Negative Declaration may be prepared instead of an EIR. If the project would still result in one or more significant effects on the environment after mitigation measures are added to the project,

an EIR shall be prepared. The EIR shall emphasize study of the impacts determined to be significant and can omit further examination of those impacts found to be clearly insignificant in the Initial Study.

Section 5. Determining Significant Effect. In evaluating the significance of the environmental effect of a project, both primary or direct and secondary or indirect consequences shall be considered. Primary consequences are immediately related to the project (construction of a new treatment plant may facilitate population growth in the area), while secondary consequences are related more to primary consequences than to the project itself (an impact upon the resource base, including air, water and energy use of the area, may result from the population growth). A project will normally have a significant effect on the environment if it will:

- (a) Conflict with adopted environmental plans and goals of the community where it is located;
- (b) Have a substantial and demonstrable negative aesthetic effect;
- (c) Substantially affect a rare or endangered species of animal or plant or the habitat of the species;
- (d) Interfere substantially with the movement of any resident or migratory fish or wildlife species;
- (e) Breach published national, state, or local standards relating to solid waste or litter control;
- (f) Substantially degrade water quality;
- (g) Contaminate a public water supply;

- (h) Substantially degrade or deplete ground water resources;
- (i) Interfere substantially with ground water recharge;
- (j) Disrupt or alter an archaeological site over 200 years old, an historic site or a paleontological site except as part of a scientific study of the site;
- (k) Induce substantial growth or concentration of population;
- (l) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system;
- (m) Displace a large number of people;
- (n) Encourage activities which result in the use of large amounts of fuel or energy;
- (o) Use fuel or energy in a wasteful manner;
- (p) Increase substantially the ambient noise levels for adjoining areas.

Section 6. Mandatory Findings of Significance. A project shall be found to have a significant effect on the environment if:

- (a) The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or 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 a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.
- (b) The project has the potential to achieve short-term

environmental goals to the disadvantage of long-term environmental goals;

(c) The project has possible environmental effects which are individually limited but cumulatively considerable. As used in the subsection, "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; and

(d) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

Section 7. Mitigations. The Board of Directors may determine that no significant impact will occur where the initial study determines that mitigation measures are feasible to reduce impacts below the threshold limits specified in ARTICLE VI, Sections 5 and 6.

ARTICLE VI

Negative Declarations

Section 1. General. A Negative Declaration shall be prepared for a project which could potentially have a significant effect on the environment, but which the Board of Directors finds on the basis of an Initial Study will not have a significant effect on the environment.

Section 2. Consultation. When more than one public agency will be involved in undertaking or approving a project, the District Engineer shall, before completing a Negative Declaration, consult with all such other agencies. The District Engineer

shall also consult with and obtain comments from other public agencies having jurisdiction by law, and shall consult with persons having special expertise. If the public agency or person consulted fails to comment within a reasonable time, it shall be assumed, absent a request for a specific extension, that such agency or person has no comment to make.

Section 3. Contents of a Negative Declaration. A

Negative Declaration shall include:

(a) A brief description of the project, including a commonly used name for the project, if any.

(b) The location of the project and the name of the project proponent.

(c) A finding that the project will not have a significant effect on the environment.

(d) An attached copy of the Initial Study documenting reasons to support the finding.

(e) Mitigation measures, if any, included in the project to avoid potentially significant effects.

Section 4. Notice of Preparation. Notice of the preparation of a Negative Declaration shall be provided to the public not less than ten (10) days prior to final adoption of the Negative Declaration by publication in a newspaper of general circulation in the District pursuant to the requirements of Government Code Section 6061.

Section 5. The Initial Study shall be attached to and become part of the Negative Declaration. It shall contain a statement of the particular circumstances or conditions upon which the determination is made.

Section 6. In addition to any other posting or notice required in the Resolution, the Negative Declaration and Initial Study shall be filed with the Clerk of the County of Monterey.

Section 7. The Negative Declaration shall be filed with and considered as part of the determination of any reviewing body in approving, approving subject to conditions, or disapproving any project.

Section 8. Notice of Determination. After a decision is made to carry out or approve a project for which a Negative Declaration has been prepared, a Notice of Determination, with a copy of the Negative Declaration attached, shall be filed with the County Clerk of Monterey County. The filing of the Notice of Determination with the County Clerk starts a 30-day statute of limitations on court challenges to the approval under CEQA.

The Notice of Determination shall include:

(a) The decision of the District to approve or disapprove the project;

(b) The determination of the District whether the project will have a significant effect on the environment; and

(c) A statement that no EIR has been prepared pursuant to the provisions of CEQA.

The Notice of Final Determination shall be filed with the Clerk of the County of Monterey and, if the project required discretionary approval from a state agency, also with the Secretary for Resources.

ARTICLE VII

Environmental Impact Reports

Section 1. Decision to Prepare an EIR. If it is found after an Initial Study that the project may have a significant effect on the environment, the District Engineer must prepare or cause to be prepared an Environmental Impact Report. It shall contain the information outlined in CEQA and the State Guidelines. An EIR should be prepared whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant effect on the environment, or when there is serious public controversy concerning the environmental effect of a project. Controversy not related to an environmental issue does not require the preparation of an EIR.

Section 2. Subsequent EIR. Where an EIR has been prepared, no additional EIR need be prepared unless:

(a) Substantial changes are proposed in the project which will require major revisions of the EIR, due to the involvement of new environmental impacts not considered in the previous EIR on the project;

(b) There are substantial changes with respect to the circumstances under which the project is to be undertaken, such as a change in the proposed location of the project, which will require major revisions in the EIR due to the involvement of new environmental impacts covered in a previous EIR.

Section 3. Use of a Single EIR. An EIR may be employed to describe more than one project, if such projects are essentially the same in terms of environmental impact.

Further, an earlier EIR prepared in connection with an earlier project may be used to apply to a later project if the circumstances of the projects are essentially the same. EIR's may be written in advance for entire programs or regulations, in order to be prepared for applications to come. In order to utilize any of these alternatives, however, it must be found that the environmental effects of the project are similar enough to warrant the same treatment in an EIR and that the EIR will adequately cover the impacts of any single project.

Section 4. Multiple and Phased Projects. Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, a single EIR must be prepared for the ultimate project. Where an individual project is a necessary precedent for action on a larger project, or commits the city to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, one EIR may be prepared for all projects, or one for each project, but in either case comment should be made upon the combined effect.

Section 5. Early Consultation. Before completing a draft EIR, the District Engineer shall consult with other public agencies involved or having jurisdiction, and with persons having special expertise, in the same manner as is required by Section 2 of these Guidelines with respect to a Negative

Declaration. For projects where federal involvement might require preparation of a federal EIS, the appropriate federal agency should be consulted on the need for an EIS. If both an EIR and an EIS are needed, the documents should be prepared jointly where federal regulations or procedures allow. If the EIR is prepared separately, all or any part of the EIS for the project may be submitted in lieu of all or any part of the EIR, provided that the EIS or the part thereof so used shall comply with the requirements of these Guidelines. In cases where the federal EIS is used, discussion of mitigation measures, and growth inducing impact and energy conservation will have to be added to or supplemented if the EIS does not include an adequate discussion of these elements.

Section 6. Notice of Completion of Draft EIR. As soon as the draft EIR is completed, a Notice of Completion must be filed with the Secretary for the Resources Agency. The notice shall include a brief description of the project, its proposed location, and an address where copies of the EIR are available and the period during which comments will be received. The form for this notice shall be that provided in the appendices to the State Guidelines.

Where the EIR will be reviewed through the State review process handled by the State Clearinghouse, the cover form required by the State Clearinghouse will serve as the Notice of Completion and no Notice of Completion need be sent to the Resources Agency.

Section 7. Public Review. After completing a draft EIR, the District Engineer shall again consult with and obtain comments from public agencies having jurisdiction by law with respect to the project and should consult with persons having special expertise with respect to any environmental impact involved. The public shall be given an opportunity to comment on the EIR, and public notice of the completion of a draft EIR shall be given at the same time that the Notice of Completion is sent to the Resources Agency, such notice to be by publication in a newspaper of general circulation in the area pursuant to the requirements of Section 6061 of the Government Code. In addition, notice by direct mailing shall be given to: (a) owners of property contiguous to the project, and (b) all organizations and individuals who have previously requested such notice. Such public notices shall state the period of time within which comments will be received.

Section 8. State Clearinghouse. The District Engineer shall use the State Clearinghouse to distribute EIR's and other environmental documents to state agencies for review and shall use areawide clearinghouses to distribute the documents to regional and local agencies.

Section 9. Preparation and Certification of EIR. The District Engineer shall prepare the final EIR and present it to the District Board for certification. The District Board shall certify that the final EIR has been completed in compliance with CEQA and the State Guidelines, and with these Guidelines, and that the District Board has reviewed and

considered the information contained in the EIR prior to the approval of the project.

Section 10. Notice of Determination. After the District Board has approved a project for which an EIR has been prepared, a Notice of Determination shall be filed with the County Clerk of Monterey County. Such notice shall include:

(a) An identification of the project by its common name, where possible;

(b) The decision of the city to approve or carry out the project;

(c) The determination of the city as to whether the project in its approved form will have a significant effect on the environment;

(d) A brief statement of the mitigation measures adopted to reduce the impacts of the proposed project; and

(e) A statement that an EIR was prepared pursuant to the provisions of CEQA and was certified as required by Section 15085 (g) of the State Guidelines. The filing of the Notice of Determination starts a 30-day statute of limitations on court challenges to the approval under CEQA.

Section 11. Statement of Overriding Considerations. Where the decision on a project allows the occurrence of significant effects identified in the final EIR, the Board shall state in writing its reasons to support its action, based on the final EIR or other information in the record. The reasons to support such action shall be set forth in a Statement of Overriding Considerations, which statement shall be included

in the record of the project approval and shall be attached to the Notice of Determination.

Section 12. Time for Public Review and Comment. Public agencies and members of the public shall be given an adequate period of time to review and comment on an EIR which has been prepared. The period of time to be allowed in a particular case shall be determined by the District Engineer upon completion of the Draft EIR and shall be specified in the public notice to be given pursuant to the provisions of Article VII, Section 7 of these Guidelines. Such review period should not be less than 30 days nor longer than 90 days except in unusual situations.

Section 13. Failure to Comment Within a Reasonable Time. If any public agency or person who is consulted with regard to an EIR fails to comment within a reasonable time specified by the District Engineer, it shall be assumed, absent a request for a specific extension of time, that such agency or person has no comment to make.

ARTICLE VIII

Posting, Notice, and Finality of Decision

Section 1. All preliminary Findings, Negative Declarations, Notices of Completion, and Notices of Final Determination of reviewing bodies shall be published in a newspaper of general circulation in the area pursuant to the requirements of Government Code Section 6061. Unless otherwise required by law, no additional notice need be given.

Section 2. Notice of actions shall be mailed to persons required by law to be noticed and not later than the date of posting, and where required, filed with the Secretary for Resources and other public agencies and the Clerk of the County of Monterey.

Section 3. Unless appealed, all determinations shall become final ten (10) days after being published. Notice of Completion of a Draft EIR is not a "determination" as used in this section. Notices not required by law may be given to other interested parties, but failure to do so shall not affect the finality of the determination.

ARTICLE XIV

General Provisions

Section 1. State Law and Guidelines Controlling. These Guidelines are intended to conform to, and shall be interpreted in a manner consistent with, the provisions of the California Environmental Quality Act of 1970, as amended, and the State Guidelines adopted pursuant thereto. In the event of any conflict between these Guidelines and the State statutes and guidelines, the State statutes and guidelines shall control.

Section 2. Severability. If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the resolution. The District hereby declares that it would have passed this resolution and each section, subsection, sentence, clause and

phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 3. Effective Date. This resolution shall be effective as of

PASSED AND ADOPTED this 20th day of September, 1977, by the following vote:

Ayes, Directors: Benson, Oliver, Lawson

Noes, Directors: none

Absent, Directors: none


Chairman, Board of Directors
SEASIDE COUNTY SANITATION DISTRICT

ATTEST:


Secretary, Board of Directors