

**City of San José, California**

**COUNCIL POLICY**

<b>TITLE</b> ENVIRONMENTAL REVIEW POLICY	<b>PAGE</b> Page 1 of 3	<b>POLICY NUMBER</b>
<b>EFFECTIVE DATE</b>	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b>		

**BACKGROUND**

The California Environmental Quality Act (CEQA) requires public agencies to disclose the environmental impacts of projects and identify mitigation measures to reduce impacts. All discretionary projects are subject to CEQA. Most private development projects qualify for an exemption and don't require extensive analysis. However, some types of development projects may require technical studies, such as for air quality or noise, to determine if a project is exempt or to identify impacts and mitigation. These studies can take multiple months to prepare and create lengthy project review times.

The National Environmental Policy Act (NEPA) requires disclosure of environmental impacts of projects which require federal approval or funding. Most NEPA reviews are conducted by the federal agency that funds or implements a project. However, for projects in the City of San José that receive funds from the Department of Housing and Urban Development, the Department of Planning, Building, and Code Enforcement (PBCE) is the Responsible Entity for preparing NEPA documents and the Director of PBCE is the designated Certifying Officer for the City.

**PURPOSE**

This Council Policy formally adopts the Environmental Review Handbook (Handbook) as a guidance document for City staff and consultants when preparing environmental review documents pursuant to CEQA and NEPA. The Handbook includes guidance on roles and expectations of consultants, City staff, and applicants; thresholds of significance and guidance for analysis; and expected deliverables for each type of CEQA and NEPA document. The Handbook reduces uncertainty in the environmental review process, sets expectations for performance, and provides a consistent approach to environmental analysis for consultants and City staff.

This Policy also adopts Environmental Standard Permit Conditions to reduce the environmental impacts of most development projects in developed areas of San Jose. These conditions will reduce the need for project-specific mitigation measures and will ensure project conformance with General Plan Policies for the purpose of protecting City residents and the environment.

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**POLICY**

***Environmental Review Handbook***

The Handbook provides guidance for City staff and consultants when preparing environmental review documents pursuant to CEQA and NEPA in the City. The Handbook includes the following:

- Roles and expectations for performance for City staff and environmental consultants
- Target City review times by type of environmental review document
- Guidelines for analysis and thresholds of significance pursuant to Section 15064.7 of the CEQA Guidelines by environmental resource area
- Deliverable expectations for consultants when preparing a scope of work
- Direction for preparing the most common types of CEQA and NEPA documents

The Handbook will be updated regularly to reflect changes based on case law and new legislation. It may also be updated to reflect changes in the City’s approach to environmental review. Changes to the Handbook must be approved by the Director of Planning, Building and Code Enforcement.

***Environmental Standard Permit Conditions***

This policy also adopts Environmental Standard Permit Conditions for development projects in developed areas of San José. These conditions would apply to development and use permits based on criteria listed in the Environmental Standard Permit Conditions document. The conditions and criteria are based on substantial evidence from previously adopted environmental review documents and supplemental analysis prepared to support conditions related to construction air quality, biological resources, construction noise, and construction vibration. These conditions address the most common types of environmental impacts from development projects within the urban services line, including impacts related to:

- Construction air quality, including particulate matter and health risk;
- Nesting migratory birds;
- Roosting bats;
- Archeological and tribal cultural resources;
- Historic resources (excluding landmarks and candidate landmarks);
- Seismic hazards;
- Paleontological resources;
- Hazardous materials;
- Construction noise;
- Mechanical equipment noise; and
- Construction vibration.

Each condition includes criteria for when the condition would be required. The criteria is based on factors such as the size of the project, the type of project, length of construction, and characteristics of the area surrounding the project site.

Implementation of Environmental Standard Permit Conditions would ensure that most small to medium development projects in previously developed areas of San José would not result in

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significant environmental impacts. Inclusion of the Environmental Standard Permit Conditions will result in more CEQA Exemptions and will reduce the timeline for the preparation of other environmental review documents. However, project-specific environmental analysis will be required for projects that do not meet the criteria, which may identify additional project-specific mitigation measures to reduce impacts beyond those addressed by the Environmental Standard Permit Conditions.

The Environmental Standard Permit Conditions may be modified by the Director of Planning Building, and Code Enforcement in response to changes in City, State, or federal law or in response to case law. The conditions may also be modified based on new information or changes in City planning procedures.

***Applicability of Policy***

The Environmental Review Policy will be effective upon adoption by City Council. Projects submitted prior to adoption of the Policy may continue with their environmental review approach pursuant to an approved scope of work. Projects submitted between the date of adoption and a date 90 calendar days from adoption may proceed with the environmental review approach in a City approved scope of work. Projects submitted more than 90 days after Council adoption of the Policy shall utilize an environmental review approach pursuant to the Policy (including the Environmental Review Handbook and Environmental Standard Permit Conditions) unless the Director of Planning, Building and Code Enforcement, or the Director’s Designee, agree to a modified approach in an approved scope of work.