Longtin’s
LAND USE
PROCEDURES
& TIMELINES
ABOUT THE AUTHOR

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Mr. Longtin is the author of Longtin’s California Land Use, a comprehensive two-volume set of law and practice books. Mr. Longtin discontinued active law practice in 1996. However, he continues to study land use and to update Longtin’s Cal Land Use annually.

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LAND USE
PROCEDURES AND TIMELINES

CONTENTS

Introduction and Scope ........................................... 4
Project Application and Review. Permit Streamlining Act (PSA) . 4
  PSA Meets CEQA ................................................. 4
  Applicability ................................................... 4
  Project Application ............................................. 5
  CEQA Review .................................................... 5
  Project Decision ............................................... 5
  Deemed Approved ............................................... 5
  Time Extensions ............................................... 5
California Environmental Quality Act (CEQA) ..................... 6
  In General ....................................................... 6
  Exempt Projects ................................................ 6
  Initial Study .................................................... 6
  Negative Declaration (ND) ..................................... 6
  Environmental Impact Report (EIR) ............................. 7
Notice and Hearing Procedures .................................. 9
  Due Process ..................................................... 9
  Notice ............................................................ 9
  Hearing .......................................................... 9
Time Limits. Procedural Defects. Litigation ....................... 10
  Time Limits. Extensions ....................................... 10
  Effect of Procedural Defects .................................. 10
  Deadlines for Legal Challenge ................................ 10
  Expediting Litigation ......................................... 11

DIAGRAMS

Flow Chart and Timelines ........................................ 2
Chart of Procedures for Specified Activities .................... 12

ABBREVIATIONS

CCP . . . . . . . . Code of Civil Procedure
CEQA . . . . . . . California Environmental Quality Act
EIR . . . . . . . Environmental Impact Report
GovC . . . . . . . Government Code
Guidelines . CEQA Guidelines / 14 Cal. Code of Regulations
Longtin's . . . . . . Longtin’s California Land Use, legal text
ND . . . . . . Negative Declaration
PRC . . . . . . Public Resources Code
PSA . . . . . . Permit Streamlining Act
SMA . . . . . . Subdivision Map Act
**FLOW CHART AND TIME-**

- **COMPLETED APPLICATION**
  - **Determine Completion** of application within 30 days of submittal or notify applicant if incomplete. Acceptance as complete starts time periods for environmental review. *GovC 65943, Guidelines 15060, 15101, Longtin’s §§11.23, 11.24.*

- **INITIAL STUDY** to determine whether ND or EIR, within 30 days; mutual 15-day extension. *PRC 21080.1, 21080.2, 21080.3, Guidelines 15063, 15102.*

- **NEGATIVE DECLARATION** may be adopted if no substantial evidence of significant impact or impact mitigated. *Guidelines 15070, Longtin’s §§4.52–4.55.*
  - **Notice of Intent to Adopt ND** with sufficient time to allow review. Post, mail and publish. *Guidelines 15072.*
  - **Review and Consultation Period** at least 20 days. *Guidelines 15073.* **Comments** considered. *Guidelines 15074(b).*
  - **Adoption of ND** within 180 days of complete application. *Guidelines 15107.*
  - **Notice of Determination of ND** filed and posted within 5 days of project approval. *Guidelines 15075.* Triggers 30-day time limit to challenge ND. *Guidelines 15112.*

- **EXEMPT PROJECTS**
  - Not subject to further review. *PRC 21080(b), Guidelines 15061, 15260 et seq. and 15300 et seq., Longtin’s §4.42 et seq.* Agency must approve/disapprove project within 60 days. *GovC 65950(a).*
  - **Notice of Exemption** filing triggers 35-day time limit for challenge. *PRC 21152 and 21167, Guidelines 15062.*

- **NO CEQA REVIEW**
- **NO EIR REQUIRED ND ADOPTED**
ENVIRONMENTAL IMPACT REPORT

EIR Required when project may have significant impact. Longtin’s §4.52.

Notice of Preparation sent to other agencies for scope and content response within 30 days. Guidelines 15082 and 15103.

Draft EIR prepared by agency. Guidelines 15084. For content, see Longtin’s §4.62.

Notice of Completion filed with specified agencies. Guidelines 15085.

Notice of Availability. Post, mail and publish. Guidelines 15087.

Public Review/Agency Consultation for minimum 30 days. Guidelines 15087, 15105.

Comments and Responses in final EIR. Guidelines 15088 and 15132.

Findings/Overriding Consideration Statement for approvals with significant effect. Guidelines 15091, 15093.

Final EIR Certification within 1 year of completed application. 90-day extension. Guidelines 15108.

Notice of Determination filed and posted within 5 days. Guidelines 15094. Triggers 30-day limit for CEQA challenge. Guidelines 15112.

PROJECT DECISION

If EIR Certified, agency must approve or deny within 180 days (90 days if low-income housing) GovC 65950. Less for subdivision maps GovC 65952.1. Guidelines 15111. Project deemed approved if no action within time limits. GovC 65956.

PROJECT DECISION

If Project Exempt or ND Adopted, agency must approve/disapprove within 60 days. GovC 65950. Deemed approved if no action within time limits. GovC 65956.
Introduction and Scope. Most every land use project requires both application and decision pursuant to the Permit Streamlining Act (PSA) and environmental review under the California Environmental Quality Act (CEQA). Also, notice and hearing requirements are established by other laws. This procedural intersection can be complex and confusing.

This booklet contains a digest of the requirements and timelines for notice, review, decision and legal challenge for land use projects in California. It includes a flow chart, diagram and explanatory text, with liberal reference to authoritative sources. Although not comprehensive because of size limitations, the booklet covers areas most useful for most permit activities.

PROJECT APPLICATION AND REVIEW
PERMIT STREAMLINING ACT (PSA)

PSA Meets CEQA: The Permit Streamlining Act (PSA) (GovC §§65920 et seq./Longtin’s §§11.22–11.27) requires agencies to follow standardized procedures and strict time deadlines for application, review and approval of development projects. The PSA and CEQA work together like on/off lights. When application submitted, PSA turns on; when application completed, PSA turns off and CEQA turns on for environmental review; then CEQA turns off when review complete and PSA turns on again through project decision.

<table>
<thead>
<tr>
<th>APPLICATION</th>
<th>ENVIRONMENTAL REVIEW</th>
<th>DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>PSA</td>
<td>CEQA</td>
<td>PSA</td>
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</table>

Applicability: PSA applies to “development projects,” which include all adjudicatory approvals such as subdivision maps and most discretionary development permits. It does not apply to ministerial actions such as building permits, lot line adjustments, and certificates of compliance. Nor does it apply to legislative actions, such as general plan or zoning changes. Longtin’s §11.22.
**Project Application:** Agency specifies information required from applicant for development project. GovC §§65940, 65941. Upon receipt of application, agency has 30 days to determine and notify applicant whether application is complete for processing. If incomplete, resubmittal starts new 30-day review period. If agency fails to notify applicant of completion status within 30-day period, application is deemed complete. A completed application starts clock for agency review and decision. GovC §65943, Longtin’s §11.24.

**CEQA Review:** Once application is complete, agency proceeds with CEQA process, making determinations on exemptions, negative declaration, or EIR certification, all within specified time periods. See CEQA, p. 6.

**Project Decision:** Following CEQA review and determination, PSA again becomes active, with strict time limits for project decision. After EIR certified, agency must approve or deny project within 180 days from date of certification. If low-income housing project, time shortened to 90 days. If project exempt from CEQA or if negative declaration adopted, agency must approve or deny within 60 days from determination. GovC §65950.

**Subdivision Approvals:** Time limits for approval of tentative subdivision maps (50 days for advisory agency/40+ days for appeal) may be shorter and must be followed (Gov §§65952.1, 66452.1, 66452.2, 66452.5). For CEQA reconciliation with short time limits for approval, see Guidelines §15111.

**Deemed Approved:** If no action is taken on project within specified time limits, project is deemed approved, but only if requirements for public notice and review are satisfied. Options available to applicant to ensure notice compliance. GovC §65956(b), Longtin’s §11.26.

**Time Extensions:** PSA time limits for project decision may be extended once, by mutual agreement, not to exceed 90 days. GovC §65957. If there has been an extension under CEQA (see p. 10), to complete and certify an EIR, project must be decided within 90 days of certification. GovC §65950.1.
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

In General

CEQA (PRC §§21000 et seq.) is a procedural statute designed to inform decision makers and the public about potential environmental effects of proposed land use activities. A major challenge for practitioners is compliance with the various notice, consultation and review periods required by CEQA and its Guidelines. CEQA works together with the PSA by commencing its environmental review after project application is complete. After CEQA review, the PSA controls again through project decision.

Based upon the type of project and its potential for environmental impact, CEQA review may follow one of three courses: (a) exemption; (b) negative declaration (ND); or (c) environmental impact report (EIR).

Exempt Projects

CEQA and its Guidelines exempt many types of activities from its requirements. See PRC §§21080–21080.33, Guidelines §§15061, 15062, 15260 et seq., 15300 et seq. and Longtin’s §§4.42 et seq. If project exempt, agency must approve or disapprove within 60 days. GovC §65950(a). Upon approving exempt project, agency or applicant may file notice of exemption, which triggers 35-day statute to challenge exemption determination. If notice not filed, time to challenge is 180 days from project approval. PRC §§21152, 21167, Guidelines §§15062, 15112.

Initial Study

An initial study, including consultations with applicant and other agencies, determines whether to prepare an ND or EIR. PRC §§21080.1–21080.3, Guidelines §15063(g). Agency must decide within 30 days. May be extended 15 days by mutual consent. PRC §21080.2. See Guidelines §§15063, 15102.

Negative Declaration (ND)

ND may be adopted when no substantial evidence that project may have significant effect. For projects where significant effect
identified, but mitigation measures reduce effect to insignificant, mitigated ND may be adopted. PRC §21080(c), Guidelines §15070, Longtin’s §§4.52–4.55.

Content: For minimum required, see Guidelines §15071.

Notice of Intent to Adopt ND must be posted for 20/30 days and mailed to specified agencies and persons. PRC §§21092, 21092.3, Guidelines §15072.

Review and Consultation Period, for agencies and public, at least 20 days. Review period extended when ND sent to state clearinghouse. PRC §§21091, 21092.4, Guidelines §§15073, 15206.

Comments received during review period must be considered. PRC §21091(d), Guidelines §15074(b). Unlike EIR, comments not required to be attached to ND nor must lead agency respond.

Revised ND requires recirculation. Guidelines §15073.5.

Mitigation Measures: Where potential effects identified, but revisions in project reduce effect to insignificant, ND may be used. Guidelines §15070(b). Substitution of mitigation measures, prior to project approval, requires hearing and findings of equivalency. PRC §21080(f), Guidelines §15074.1.

Completion/Adoption of ND required within 180 days from completion of application. PRC §21151.5, Guidelines §15107.

Notice of Determination to be filed within five days of project approval and posted 30 days. PRC §21152, Guidelines §15075.

Statute of Limitations to challenge ND decision is 30 days if notice filed and posted, otherwise 180 days from project approval. PRC §21167, Guidelines §15112.

Environmental Impact Report (EIR)

EIR must be prepared when evidence supports “fair argument” that project may have significant effect on environment. See Longtin’s §4.52. For criteria to determine significant effect, see Guidelines §§15064, 15065.

Notice of Preparation. Scoping: NOP to be sent to responsible and trustee agencies immediately. Agencies to specify scope and
content of information related to area of responsibility within 30 days. Scoping meeting if requested. *PRC §21080.4, Guidelines §§15082, 15103.*

**Early Consultation:** Early public consultation encouraged. *Guidelines §15083.* Consultation with water agencies required for specified large projects. Agencies to provide water supply adequacy assessment within 30 days of NOP. *Guidelines §15083.5.*

**Draft EIR** to be prepared by, or under contract to, agency. *Guidelines §15084.* For content of EIR, see *PRC §21100, Guidelines §§15120 et seq., Longtin’s §4.62.*

**Notice of Completion** to be filed with OPR and state clearinghouse, if required, when draft EIR complete. *PRC §21161, Guidelines §15085.*

**Notice of Availability. Public Review and Agency Consultation:** NOA sent to affected agencies and requesting individuals. Post and mail to contiguous owners. *PRC §§21092, 21092.3, Guidelines §15087.* Lead agency to consult with affected agencies and request comments. *PRC §21092.4, Guidelines §15086.* Minimum consultation and public review period for draft EIR is 30 days, 45 days when submitted to state clearinghouse. *PRC §§21091, 21092, Guidelines §15105.*

**Comments and Responses** required in final EIR prior to certification. *PRC §21092.5, Guidelines §§15088, 15132.*

**Final EIR. Certification** prior to project approval and within one year from complete application, unless extended 90 days by mutual consent. *PRC §21151.5, Guidelines §15108.*

**Findings and Statement of Overriding Consideration** needed for approvals with remaining unmitigated significant effects. *Guidelines §§15091, 15093.*

**Notice of Determination. Statute of Limitations:** Agency may file and post notice within five days of approval. *PRC §21152, Guidelines §15094.* Notice triggers 30-day statute for CEQA challenge. *Guidelines §15112(c)(1). If notice not filed, time extended to 180 days. PRC §21167, Guidelines §15112(c)(5).*
NOTICE AND HEARING PROCEDURES

Due Process (Longtin’s §11.30)

The constitutional principle of procedural due process requires that landowners and other affected parties must be provided adequate notice and opportunity to be heard prior to any government action that may affect significant property rights. As a practical matter, compliance with required statutory land use procedures will normally ensure due process compliance.

Notice (Longtin’s §11.31)

Public hearing notice requirements for land use projects are covered by GovC §§65090 and 65091 (notice requirements for CEQA determinations are in CEQA section, above). Generally, projects requiring legislative approval (general/specific plan and zoning amendments) only require publication and posting. GovC §65090. Adjudicatory decisions (tentative maps, variances, use permits, and other discretionary development permits) require both publication/posting and specific mailing to applicant and affected property owners. GovC §65091. For chart of notice requirements for specific permits and activities, see pp. 12–13.

Content: Date, time and place of hearing, description of property, and explanation of matter to be considered. GovC §65094.

Publication/Posting: 10 days prior newspaper publication or posting in three public places. GovC §65090.

Mailing: 10 days prior mailed notice to applicant and property owners within 300 feet. GovC §65091.

Hearing (Longtin’s §11.32)


Hearing Agenda to be posted 72 hours prior to agency meeting. GovC §54954.2, Longtin’s §11.42.

Opportunity to be Heard: Affected parties have right to meaningful hearing and to raise specific objections. Longtin’s
§11.32[4]. For burden of proof, evidence and issues to be considered, see *Longtin’s §§11.32[3]–[12].

**Decision-Making Process**: For discussion of bias and fairness, conflicts of interest and voting, see *Longtin’s §§11.40–11.45.*


**Appeals**: See *Longtin’s §11.32[13].

### TIME LIMITS. PROCEDURAL DEFECTS. LITIGATION

#### Time Limits. Extensions

For time limits on specified PSA and CEQA activities, see text (pp. 5–8) and chart of timelines, pp. 2–3. CEQA time limits are directory, not mandatory. *Longtin’s §4.86[3].* Time periods may be extended by mutual consent, within limits. *Guidelines §15108.* And may be suspended for applicant delay. *Guidelines §15109.* “Deemed approved” provisions of PSA and SMA are mandatory. See p. 5.

#### Effect of Procedural Defects

Defective procedures generally do not invalidate permit or action unless party complaining suffered substantial injury and result would have been different. CEQA notices valid if agency makes “good faith effort.” *GovC §§65010, 65093, 65945.7.* See *Longtin’s §§11.31[5], 11.32[15].* However, cumulative errors may violate due process. See *Longtin’s §11.32[15].

#### Deadlines for Legal Challenge

The statute of limitations for challenges to land use decisions is short. *Guidelines §15112.* For most CEQA determinations, 30 days (*PRC §21167*); for most planning, zoning and subdivision decisions, 90 days (*GovC §§65009(c), 66499.37*). Many time limitations run from date of decision to filing legal action and service of process (*GovC §65009(c)*). For list of limitation periods for specific land use permits/activities, see chart, pp. 12–13.
Expediting Litigation

Cases involving CEQA compliance issues are entitled to calendar preference and other expedited procedures to quickly resolve litigation. *PRC §21167.1.*
<table>
<thead>
<tr>
<th>PERMIT or ACTIVITY</th>
<th>TYPE</th>
<th>NOTICE/HEARING</th>
</tr>
</thead>
<tbody>
<tr>
<td>General/Specific Plan Amendment</td>
<td>Legislative</td>
<td>Noted hearing before planning commission and legislative body. GovC 65353-65356, 65453.</td>
</tr>
<tr>
<td>Zoning Amendment/Rezoning</td>
<td>Legislative</td>
<td>Noted hearing before planning commission and legislative body. GovC 65854-65857.</td>
</tr>
<tr>
<td>Development Agreement</td>
<td>Legislative</td>
<td>Noted hearing. GovC 65867.</td>
</tr>
<tr>
<td>Discretionary Permit, CUP/Variance</td>
<td>Adjudicative</td>
<td>Noted hearing. GovC 65905. Due process.</td>
</tr>
<tr>
<td>Subdivision: Tentative Map, Parcel Map</td>
<td>Adjudicative</td>
<td>Noted hearing. GovC 66451.3. Due process.</td>
</tr>
<tr>
<td>Final Map, Lot Line Adjustment, Certificate of Compliance</td>
<td>Ministerial</td>
<td>No hearing required</td>
</tr>
<tr>
<td>Permit Conditions and Fees</td>
<td>Legislative (adopting fee ordinance), adjudicative (imposing condition/fee on specific project)</td>
<td>Noted hearing. GovC 66016 (adopt fees); 65905 (permits); 66451.3 (subdivisions). Due process.</td>
</tr>
<tr>
<td>Building/Occupancy Permits</td>
<td>Ministerial</td>
<td>No hearing required</td>
</tr>
<tr>
<td>CEQA: Exemption Determination, ND Adoption, EIR Certification</td>
<td>Not necessary to determine</td>
<td>CEQA requires no public hearings. However, agencies are required to notice various determinations/decisions. See pp. 6–8.</td>
</tr>
</tbody>
</table>
## FINDINGS
As general rule, findings required for adjudicative decisions; not required for legislative or ministerial decisions. *Longtin’s §11.51.*

<table>
<thead>
<tr>
<th>STATUTE of LIMITATIONS</th>
<th>JUDICIAL REVIEW/REMEDY</th>
</tr>
</thead>
<tbody>
<tr>
<td>See p. 10 and <em>Longtin’s §12.34.</em></td>
<td>Invalidation, mandate and damages are common remedies for land use litigation. Ancillary remedies include injunctions, declaratory relief, civil penalties and attorney fees. See <em>Longtin’s §§12.01–12.09A and 12.40.</em></td>
</tr>
</tbody>
</table>

### For Specific Activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>Finding Requirement</th>
<th>Time Limit</th>
<th>Relevant Statutes</th>
<th>Remedies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not required. Except general plan amendment limiting housing. <strong>GovC 65302.8.</strong></td>
<td>90 days. <strong>GovC 65009, 65860(b).</strong></td>
<td><strong>CCP 1085 mandate review.</strong> If plan inadequate, compliance remedy. <strong>GovC 65750–65763.</strong> If inconsistency, invalidation remedy. <strong>GovC 65860(b).</strong></td>
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<tr>
<td>Not required. Except zoning limiting housing <strong>GovC 65863.6; interim urgency ordinance GovC 65858; others GovC 65567.</strong></td>
<td>90 days. <strong>GovC 65009, 65860(b).</strong> Except actions in support of affordable housing, 1 year. <strong>GovC 65009(d), (g).</strong></td>
<td><strong>CCP 1085 mandate review.</strong> Invalidation and damages remedies. <strong>CCP 1095, GovC 65860(b) (consistency).</strong></td>
<td></td>
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</tr>
<tr>
<td>General plan consistency. <strong>GovC 65867.5.</strong></td>
<td>90 days. <strong>GovC 65009, 65860(b) (consistency).</strong></td>
<td><strong>CCP 1085 mandate review.</strong> <strong>GovC 65860(b) (consistency).</strong></td>
<td></td>
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</tr>
<tr>
<td>Topanga findings required. <em>Longtin’s §3.72[6].</em></td>
<td>90 days. <strong>GovC 65009.</strong></td>
<td><strong>CCP 1094.5 mandate.</strong> Invalidation, damages remedies. <strong>CCP 1095.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Map approval findings. <strong>GovC 66473.5 and 66474.</strong></td>
<td>90 days. <strong>GovC 66499.37.</strong></td>
<td><strong>CCP 1094.5 mandate.</strong> Invalidation, damages remedies. <strong>CCP 1095.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not required. Ministerial items.</td>
<td>90 days. <strong>GovC 66499.37.</strong></td>
<td><strong>CCP 1085 mandate.</strong> Invalidation, damages remedies. <strong>CCP 1095.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Findings required as part of Discretionary Permit or Subdivision approval. See above.</td>
<td>Fee adoption/increase. 120 days. <strong>GovC 66022.</strong> Fee imposition protest. 90 days. <strong>GovC 66020(d).</strong> Legal challenge. 180 days from protest. <strong>GovC 66020(d).</strong></td>
<td>Challenge to fee adoption, <strong>CCP 860 validation. GovC 66022(b).</strong> Challenge to imposed fee, invalidation/refund. <strong>GovC 66020(d)–(f).</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Findings not required</td>
<td>90 days. <strong>CCP 1094.6.</strong></td>
<td><strong>CCP 1085 mandate.</strong> Invalidation, damages remedies. <strong>CCP 1095.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project approval despite significant effects. <em>Guidelines 15091.</em> Statement of overriding considerations. <em>Guidelines 15093.</em></td>
<td>Exemption determination, 35 days. ND adoption or EIR certification, 30 days, unless notice not filed, then 180 days. See <em>Guidelines 15112.</em></td>
<td><strong>CCP 1085 or 1094.5 “abuse of discretion” standard.</strong> <strong>PRC 21168 and 21168.5.</strong> Invalidation and compliance remedies. <strong>PRC 21168.9, CCP 1095.</strong> See <em>Longtin’s §4.90.</em></td>
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