

## CEQA Exempt Housing Projects

### Technical Advisory

#### CEQA Review of Housing Projects

This technical advisory is one in a series of advisories provided by the Governor's Office of Planning and Research (OPR) as a service to professional planners, land use officials, and California Environmental Quality Act (CEQA) practitioners. OPR creates and updates technical advisories as needed on current issues in environmental law and land use planning that broadly affect the practice of CEQA and land use planning in California. The purpose of this technical advisory is to provide a list of statutes and regulations related to the CEQA review of housing projects. This document should not be construed as legal advice.

Visit the following link to see the complete Technical Advisory CEQA Review of Housing Exemptions:

[http://opr.ca.gov/docs/20181010-TechAdvisory-Review\\_of\\_Housing\\_Exemptions.pdf](http://opr.ca.gov/docs/20181010-TechAdvisory-Review_of_Housing_Exemptions.pdf)

#### Affordable Housing Streamlining Project Approval (CEQA Exempt Housing Projects)

California Senate Bill 35 (SB-35) was signed by Governor Jerry Brown on September 29, 2017 and has been in effective since January 1, 2018. SB-35 applies in Cities and Counties that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI). SB-35 amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for the California Environmental Quality Act (CEQA) analysis, and removing the requirement for Conditional Use Authorization or other similar discretionary entitlements granted by a Planning Commission. This bulletin outlines how the Planning Department administers streamlined approval set forth in Government Code Section 65913.4.

SB-35 provides a fairly straightforward ministerial approval process for certain affordable multifamily projects, thus streamlining project approval and circumventing CEQA altogether. The legislation applies to multifamily residential developments on urban infill sites in jurisdictions that don't meet their share of regional housing needs.

For more details on Government Code Section 65913.4 visit

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=4.2.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=4.2.&article=)

#### Projects Eligible for Streamlining Project Approval

##### Affordable Housing Exemption Project Checklist

- 5 acres or less
- 100 or fewer housing units—either new construction or conversion
- All units affordable to low-income households for at least 30 years
- Not located on developed open space
- Consistent with local general plan land use and policies, and with any other applicable local plan
- Consistent with local zoning code
- Provides mitigation measures included in adopted local plans
- Served by utilities and public services or will pay all in-lieu or development fees.

- Contains no wetlands, value as wildlife habitat, endangered species, plants protected by Native Plant Protection Act, or species protected by local ordinance
- Not on the Cortese list (hazardous waste)
- Not within earthquake or seismic hazard zone, unless general plan or zoning contains provisions to mitigate the risk
- Not within landslide hazard, floodplain, or floodway zone, unless general plan or zoning contains provisions to mitigate the risk.
- Endangerment assessment has been completed
- No significant effect on historical resources
- Does not have unusually high risk of fire/explosion due to materials used/stored on nearby properties
- Does not present a risk of a public health exposure higher than state standard
- Not within state conservancy
- Has not been divided into smaller projects to qualify for a statutory exemption

*(CA Code of Regulations Section 15194(b)-(d))*

For more information visit:

[https://govt.westlaw.com/calregs/Document/ICBC994C0D48811DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/calregs/Document/ICBC994C0D48811DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1)

#### **Residential Project Consistent With Specific Plan Exemption Project Checklist**

- Residential project within an area with an adopted Specific Plan and Certified EIR
- Residential project within an area with a Specific Plan EIR prepared in 1980 or later

*(CA Code of Regulations Section 65457)*

For more information visit:

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65457](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65457).

#### **Specific Plan Exemption Project Checklist**

- Within area with adopted Specific Plan and Certified EIR
- Project consistent with Specific Plan and EIR, including any mitigations
- Can be mixed-use, residential, or employment center/office
- If office project, Floor Area Ratio (FAR) is 0.75 or greater

*(CA Code of Regulations Section 21155.4(2))*

For more information visit:

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PRC&sectionNum=21155.4](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC&sectionNum=21155.4).

#### **Community Plan Exemption Project Checklist**

- Consistent with development density of community plan, zoning, or general plan with a certified EIR
- Initial Study completed to identify environmental effects, if any, that are:
  - o 1) peculiar to the project or parcel
  - o 2) not analyzed as significant impacts in previous EIR
  - o 3) potentially significant off-site impacts or cumulative impacts not analyzed in the earlier EIR; or

- 4) previously identified significant impacts which, as a result of substantial new information, are determined to have a more serious adverse impact than discussed in the earlier EIR.
- Any environmental effects identified in the Initial study can be substantially mitigated by uniformly applied development policies or standards

*(PRC Section 21083.3)*

For more information visit:

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PRC&sectionNum=21083.3](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC&sectionNum=21083.3).

#### **Infill Project Exemption Project Checklist**

- Site in area analyzed in certified EIR
- If residential and within 500 feet of a high volume roadway or other significant source of air pollution, includes mitigation measures
- If non-residential, includes renewable energy feature
- If commercial:
  - 1) floorplate is below 50,000 square feet; and
  - 2) within ½ mile of 1,800 dwelling units or located in a low vehicle travel area
- If office:
  - 1) located in a low vehicle travel area
- Project would not have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate.

If all checklist items are met, use this appendix to document project and utilize exemption; exemption is only partial if some or all previously identified environmental effects are not mitigated.

*(CA CEQA Guideline Reference: Section 15183.3)*

For more information visit:

[http://www.opr.ca.gov/docs/Section\\_15183.3\\_feb2013.pdf](http://www.opr.ca.gov/docs/Section_15183.3_feb2013.pdf)

#### **Transit Priority Project Exemption Project Checklist**

- Project site less than 8 acres
- Less than 200 units
- Net density at least 20 units/acre
- At least 50% residential
- If mixed-use, Floor Area Ratio of at least 0.75
- Satisfies list of environmental, affordability, and resource conservation criteria

*(CA PRC Section 21155.1)*

For more information visit:

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=21155.1.&lawCode=PRC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=21155.1.&lawCode=PRC)