

Project Eligibility Review Matrix

CEQA EXEMPTIONS FOR HOUSING PROJECTS

The following chart provides a summary of the various CEQA exemptions that are available for housing projects, along with the eligibility criteria and the limitations that may disqualify a project from applying the exemption. More details and worksheets are available for each of these on SCAG's website at: scag.ca.gov/development-streamlining-efforts

<i>Your project may qualify if...</i>					<i>Disqualified if...</i>
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
Common Sense Exemption CEQA Guidelines §15061(c)					
N/A	N/A	N/A	N/A	N/A	Potential for a significant effect on the environment, and it cannot be seen with certainty that there is no possibility that the activity may have a significant effect on the environment
New Construction or Conversion of Small Structures (Class 3 Categorical Exemption) CEQA Guidelines §15303					
1 unit, either SF or second dwelling unit OR ≤ 4 duplex units or similar MF	N/A	N/A	N/A	Residential zone	Triggers one or more exceptions due to location or environmental impacts (CEQA Guidelines §15300.2)

Your project may qualify if...					Disqualified if...
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
New Construction or Conversion of Small Structures Cont'd (Class 3 Categorical Exemption) CEQA Guidelines §15303					
≤ 3 SF residences OR ≤ 6 units for apartments, duplexes, or similar	N/A	N/A	N/A	Urbanized area	Triggers one or more exceptions due to location or environmental impacts (CEQA Guidelines §15300.2)
Acquisition of Housing for Housing Assistance Program (Class 26 Categorical Exemption) CEQA Guidelines §15326					
Actions by a redevelopment agency, housing authority, or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.	N/A	Adopted Housing Assistance Program	N/A	N/A	Project is not consistent with an Adopted Housing Assistance Plan

Your project may qualify if...					Disqualified if...
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
Infill Development Projects (Class 32 Categorical Exemption) CEQA Guidelines §15332					
N/A	N/A	general plan AND zoning ordinance	≤ 5 acres AND Substantially surrounded by urban uses AND No habitat value for endangered, rare, or threatened species AND Served by existing utilities/services	Incorporated city limits	Triggers one or more exceptions due to location or environmental impacts (CEQA Guidelines §15300.2) – note Location exception does not apply to Class 32 AND Significant traffic, noise, air or water quality impacts
Agricultural Housing (Article 12.5 Exemption) PRC §21159.22; CEQA Guidelines §15192; §15193					
≤ 45 units* for employees OR ≤ 45 employees* (if group living facility) <i>*≤ 20 units or employees allowed if site zoned for general agricultural use</i>	Available to lower income for ≥ 15 years (no public financial assistance) OR Available to very low, low, or moderate income ; ≥ 15 years for low and moderate (public financial assistance)	general plan/ specific plan/ local coastal program AND zoning ordinance AND community-level environmental review completed	≤ 2 acres (pop. density ≥ 1,000 people/sq. mile) OR ≤ 5 acres (pop. density ≤ 1,000 people/sq. mile) AND Served by existing utilities AND Development on ≥ 2 side	Incorporated city OR Census-defined place : ≥ 5,000 people/sq. mile OR Census-defined place: ≥ 1,000 people/sq. mile* <i>*unless significant environmental effect due to unusual circumstances or specified cumulative impacts</i>	one or more environmental conditions exist

Your project may qualify if...					Disqualified if...
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
Affordable Housing (Article 12.5 Exemption) PRC §21159.23; CEQA Guidelines §15192; §15194					
≤ 100 units of any type	Available to lower income ≥ 30 years at <u>"affordable" rent</u>	general plan/ specific plan/ local coastal program AND zoning ordinance AND community-level environmental review completed	≤ 5 acres AND Served by existing utilities AND Site or adjacent parcels developed with <u>qualified urban uses</u> OR • No parcel created within site in last 10 years • ≥ 75% of site perimeter adjoins parcels developed with qualified urban uses • Remaining 25% of the perimeter adjoins parcels previously developed for qualified urban uses	<u>Urbanized area</u> or <u>Census-defined place</u> : pop. density ≥ 5,000 people/sq. mile OR If ≤ 50 units: city with pop. density ≥ 2,500 people/sq. mile and 25,000 total pop. OR Incorporated city or census-defined place: pop. density ≥ 1,000 people/sq. mile * <i>*unless significant environmental effect due to unusual circumstances or specified cumulative impacts</i>	One or more <u>environmental conditions</u> exist

Your project may qualify if...					Disqualified if...
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
Residential Infill (Article 12.5 Exemption) PRC §21159.24; CEQA Guidelines §15192; §15195					
≤ 100 units AND No single level building > 100,000 SF AND Density of ≥ 20 du/ac.* <i>*≥ 10 du/ac. allowed if greater than average density of residential properties within 1,500 ft.</i>	≥ 10% units sold to moderate income * AND ≥ 10% units rented to low income * AND ≥ 5% units rented to very low income * <i>*provided in project or in- lieu fee</i>	general plan/ specific plan/ local coastal program (and community-level environmental review completed in the last 5 years) AND zoning ordinance	≤ 4 acres AND Served by existing utilities	An infill site AND ≤ 0.5 mile of major transit stop	One or more environmental conditions exist OR significant effect due to unusual circumstances OR Substantial change to circumstances since community-level environmental review OR New information regarding circumstances since community-level environmental review

Your project may qualify if...					Disqualified if...
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
Residential or Mixed-Use Housing in Unincorporated Areas (Sunsets on January 1, 2025) PRC §21159.25					
<p>≥ 6 multifamily units*</p> <p>AND</p> <p>Density ≥ highest of:</p> <ul style="list-style-type: none"> • average density of adjoining residential • average density of residential w/in 1,500 ft. • 6 du/ac. <p><i>*Mixture of multifamily and nonresidential permitted if multifamily residential at least two-thirds of total square footage</i></p>	N/A	<p>general plan</p> <p>AND</p> <p>zoning ordinance</p>	<p>≤ 5 acres</p> <p>AND</p> <p>Surrounded by urban uses:</p> <ul style="list-style-type: none"> • ≥ 75% of site perimeter adjoins parcels developed with qualified urban uses • Remaining 25% of the perimeter adjoins parcels previously developed for qualified urban uses <p>AND</p> <p>No value as habitat for endangered, rare, or threatened species</p> <p>AND</p> <p>Served by utilities and services</p>	<p><u>Urbanized area</u></p> <p>OR</p> <p>Urban cluster (areas with at least 2,500 and less than 50,000 people) designated by U.S. Census Bureau</p>	<p><u>Significant impacts related to traffic, noise, air or water quality</u></p> <p>OR</p> <p><u>Significant effect due to unusual circumstances, certain environmental impacts or conditions, or specified cumulative impacts</u></p>

Your project may qualify if...					Disqualified if...
Housing Type/ # of Units	Applicability	Consistent with	Project Site	Location	
Transit Priority Project (Sustainable Communities Project Exemption) PRC §21155.1; SB 375					
<p>≥ 50% total building SF is residential</p> <p>OR</p> <p>If 26% to 50% total building SF is non-residential, then FAR ≥ 0.75</p> <p>AND</p> <p>≥ 20 du/ac. min. net density</p> <p>AND</p> <p>≤ 200 units</p> <p>AND</p> <p>15% more energy efficient than required</p> <p>AND</p> <p>25% less water usage than average (buildings and landscaping)</p> <p>AND</p> <p>No single level building > 75,000 SF</p>	<p>No net loss of affordable housing</p> <p>AND</p> <p>≥ 20% units sold to moderate income; income restrictions/requirements for ≥ 30 years*^</p> <p>≥ 10% units rented to low income; available for ≥ 55 years*^</p> <p>≥ 5% units rented to very low income; available for ≥ 55 years*^</p> <p><i>*results from project directly or indirectly through in-lieu fee payment</i></p> <p><i>^Affordability provisions not required if project provides public open space ≥ 5 ac./1,000 project residents</i></p>	<p>Consistent with SCS or APS</p> <p>AND</p> <p>Applicable mitigation measures, performance standards, or criteria from prior EIRs or adopted findings included in project</p>	<p>≤ 8 acres</p> <p>AND</p> <p>Served by existing utilities</p>	<p>Within 0.5 mile of rail transit station or ferry terminal*</p> <p>OR</p> <p>Within 0.25 mile of high quality transit corridor*</p> <p><i>*included in regional transportation plan</i></p>	<p>One or more of several environmental conditions are present</p> <p>Conflicts with nearby operating industrial uses</p>
Transit Oriented Housing Exemption PRC §21155.4; SB 743					
Residential or mixed-use project	N/A	<p>Specific Plan with certified EIR</p> <p>AND</p> <p>Consistent with SCS or APS</p>	N/A	Transit Priority Area	One of events in PRC Section 21166 occurs

GLOSSARY

EXCEPTIONS TO CATEGORICAL EXEMPTIONS (CEQA GUIDELINES §15300.2)

CEQA Guidelines §15300.2 identifies the following exceptions which may disqualify a project from using a categorical exemption:

- a. Location.** Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- b. Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- c. Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- d. Scenic Highways.** A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- e. Hazardous Waste Sites.** A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to §65962.5 of the Government Code.
- f. Historical Resources.** A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

URBANIZED AREA (CEQA GUIDELINES §15387 AND PRC §21071)

CEQA Guidelines §15387. Urbanized area

“Urbanized area” means a central city or a group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population density of at least 1,000 persons per square mile. A Lead Agency shall determine whether a particular area meets the criteria in this section either by examining the area or by referring to a map prepared by the U.S. Bureau of the Census which designates the area as urbanized. Maps of the designated urbanized areas can be found in the California EIR Monitor of February 7, 1979. The maps are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The maps are sold in sets only as Stock Number 0301-3466. Use of the term “urbanized area” in Section 15182 is limited to areas mapped and designated as urbanized by the U.S. Bureau of the Census.

PRC §21071. Urbanized area means either of the following:

- a.** An incorporated city that meets either of the following criteria:
 1. Has a population of at least 100,000 persons.
 2. Has a population of less than 100,000 persons if the population of that city and not more than two contiguous incorporated cities combined equals at least 100,000 persons.

- b. An unincorporated area that satisfies the criteria in both paragraph (1) and (2) of the following criteria:
1. Is either of the following:
 - A. Completely surrounded by one or more incorporated cities, and both of the following criteria are met:
 - i. The population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than 100,000 persons.
 - ii. The population density of the unincorporated area at least equals the population density of the surrounding city or cities.
 - B. Located within an urban growth boundary and has an existing residential population of at least 5,000 persons per square mile. For purposes of this subparagraph, an “urban growth boundary” means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.
 2. The board of supervisors with jurisdiction over the unincorporated area has previously taken both of the following actions:
 - A. Issued a finding that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that does both of the following:
 - i. Promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing.
 - ii. Protects the environment, open space, and agricultural areas.
 - B. Submitted a draft finding to the Office of Planning and Research at least 30 days prior to issuing a final finding, and allowed the office 30 days to submit comments on the draft findings to the board of supervisors.

(Tip: Check status at www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural/2010-urban-rural.html)

SUBSTANTIALLY SURROUNDED BY QUALIFIED URBAN USES (PRC §21159.25 [a][2])

“Substantially surrounded” means at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified.

QUALIFIED URBAN USES (PRC §21072)

Any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

INFILL SITE (PRC §21061.3)

“Infill Site” is a site in an urbanized area that meets either of the following criteria:

- ▶ The site has not been previously developed for urban uses and both of the following apply:
 - The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.
 - No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.
- ▶ The site has been previously developed for qualified urban uses.

LOWER INCOME HOUSEHOLDS (CALIFORNIA HEALTH AND SAFETY CODE §50079.5)

- a. “Lower income households” means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually.
- b. “Lower income households” includes very low income households, as defined in Section 50105 , and extremely low income households, as defined in Section 50106 . The addition of this subdivision does not constitute a change in, but is declaratory of, existing law.
- c. As used in this section, “area median income” means the median family income of a geographic area of the state.

VERY LOW, LOW, AND MODERATE INCOME (GOVERNMENT CODE §65589.5[h][3])

Housing for very low, low-, or moderate-income households means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

AFFORDABLE RENT (CALIFORNIA HEALTH AND SAFETY CODE §50053)

- a. For any rental housing development that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent" with respect to lower income households shall not exceed the percentage of the gross income of the occupant person or household established by regulation of the department that shall not be less than 15 percent of gross income nor exceed 25 percent of gross income.
- b. For any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent," including a reasonable utility allowance, shall not exceed:
 1. A. For acutely low income households, as defined in Section 50063.5, the product of 30 percent times 15 percent of the area median income adjusted for family size appropriate for the unit.
B. This paragraph shall apply to a lease entered into on or after January 1, 2022.
 2. For extremely low income households, the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.
 3. For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.
 4. For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.
 5. For moderate-income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate-income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.
- c. The department's regulation shall permit alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to regulations adopted under subdivision (f) of Section 50462. The department shall, by regulation, adopt criteria defining and providing for determination of gross income, adjustments for family size appropriate to the unit, and rent for purposes of this section. These regulations may provide alternative criteria, where necessary, to be consistent with pertinent federal statutes and regulations governing federally assisted rental and cooperative housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.
- d. For purposes of this section, "area median income," "adjustments for family size appropriate to the unit," and "moderate-income household" shall have the same meaning as provided in Section 50052.5.

ENVIRONMENTAL THRESHOLDS/EXCEPTIONS FOR USE OF ARTICLE 12.5 EXEMPTIONS (CEQA GUIDELINES §15192)

- d.** The site of the project:
 - 1. Does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.
 - 2. Does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.
 - 3. Does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 – commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 – commencing with Section 2050) of Division 3 of the Fish and Game Code.
 - 4. Does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.
- e.** The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.
- f.** The site of the project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps have been taken in response to the results of this assessment:
 - 1. If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.
 - 2. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.
- g.** The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.
- h.** The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.
- i.** The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.
- j.** The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.
- k.** Either the project site is not within a delineated earthquake fault zone or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.
- l.** Either the project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.
- m.** The project site is not located on developed open space.
- n.** The project site is not located within the boundaries of a state conservancy.

MAJOR TRANSIT STOP (PRC §21064.3)

A site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

WITHIN 0.5-MILE OF A MAJOR TRANSIT STOP OR HIGH-QUALITY TRANSIT CORRIDOR (PRC §21155 [b])

A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor. *Tip: measure the distance "as the crow flies" from your site to the nearest qualifying transit stop.*

High Quality Transit Areas are shown on Exhibit 3.8 of the [SCAG Connect SoCal Plan](#).

TRANSIT PRIORITY AREA (PRC §21099 [a][7])

"Transit priority area" means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.

TPAs are shown on Exhibit 3.7 of the [SCAG Connect SoCal Plan](#).

COMMUNITY-LEVEL ENVIRONMENTAL REVIEW (PRC §21159.20 [b][2])

Community-level environmental review means either of the following:

- (1) An environmental impact report certified on any of the following:
 - (A) A general plan.
 - (B) A revision or update to the general plan that includes at least the land use and circulation elements.
 - (C) An applicable community plan.
 - (D) An applicable specific plan.
 - (E) A housing element of the general plan, if the environmental impact report analyzed the environmental effects of the density of the proposed project.
- (2) Pursuant to this division and the implementing guidelines adopted pursuant to this division that govern subsequent review following a program environmental impact report, or pursuant to Section 21157.1, 21157.5, or 21166, a negative declaration or mitigated negative declaration was adopted as a subsequent environmental review document, following and based upon an environmental impact report on any of the projects listed in subparagraphs (A), (C), or (D) of paragraph (1).

SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS (CEQA GUIDELINES §15162)

- a. When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
 1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
- b. If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.
- c. Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.
- d. A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

SUBSEQUENT OR SUPPLEMENTAL IMPACT REPORT; CONDITIONS (PRC §21166)

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

EXCEPTIONS TO USE OF RESIDENTIAL OR MIXED-USE HOUSING IN UNINCORPORATED AREAS EXEMPTION (PRC §21159.25)

- b.** Without limiting any other statutory exemption or categorical exemption, this division does not apply to a residential or mixed-use housing project if all of the following conditions described in this section are met:
 - 4. The project site has no value as habitat for endangered, rare, or threatened species.
 - 5. Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality.
 - 6. The site can be adequately served by all required utilities and public services.
 - 7. The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
- c.** Subdivision (b) does not apply to a residential or mixed-use housing project if any of the following conditions exist:
 - 1. The cumulative impact of successive projects of the same type in the same place, over time is significant.
 - 2. There is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
 - 3. The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.
 - 4. The project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
 - 5. The project may cause a substantial adverse change in the significance of a historical resource.

ENVIRONMENTAL CONDITIONS EXCEPTIONS TO TPP EXEMPTION (PRC §21155.1)

a. The transit priority project complies with all of the following environmental criteria:

1. (1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.
2.
 - A. The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.
 - B. For the purposes of this paragraph, "wetlands" has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - C. For the purposes of this paragraph:
 - i. "Riparian areas" means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.
 - ii. "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.
 - iii. Habitat of "significant value" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.
3. The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.
4. The site of the transit priority project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.
 - A. If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

- B. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.
5. The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.
6. The transit priority project site is not subject to any of the following:
- A. A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.
 - B. An unusually high risk of fire or explosion from materials stored or used on nearby properties.
 - C. Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.
 - D. Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.
 - E. Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.
7. The transit priority project site is not located on developed open space.
- A. For the purposes of this paragraph, "developed open space" means land that meets all of the following criteria:
 - i. Is publicly owned, or financed in whole or in part by public funds.
 - ii. Is generally open to, and available for use by, the public.
 - iii. Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.
 - B. For the purposes of this paragraph, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.
8. The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.