

Cal.Pub.Res.Code § 21080.40

§ 21080.40. Affordable housing projects exempt from California Environmental Quality Act
Effective: January 1, 2024

(a) For purposes of this section, the following definitions apply:

(1) “Affordable housing project” means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the project designated for residential use, and that satisfies all of the following requirements:

(A) All of the residential units within the project, excluding managers’ units, are dedicated to lower income households, as defined by [Section 50079.5 of the Health and Safety Code](#).

(B)(i) The project meets the labor standards set forth in [Section 65912.130 of the Government Code](#).

(ii) In addition to clause (i), for a project with 50 or more residential units, the project meets the labor standards set forth in [Section 65912.131 of the Government Code](#).

(C) The project is located on a legal parcel or parcels in any of the following locations:

(i) In a city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(ii) Within one-half mile walking distance to either a high-quality transit corridor or a major transit stop.

(iii) In a very low vehicle travel area.

(iv) Proximal to six or more amenities pursuant to paragraph (3) as of the date of submission of the application for the project.

(D) Parcels that are developed with urban uses adjoin at least 75 percent of the perimeter of the project site or at least three sides of a foursided project site. For purposes of this paragraph, parcels that are only separated by a street or highway shall be considered to be adjoined.

(2) “High-quality transit corridor” has the same meaning as set forth in [subdivision \(b\) of Section 21155](#).

(3) “Proximal” to an amenity means either of the following:

(A) Within one-half mile of any of the following amenities:

(i) A bus station.

(ii) A ferry terminal.

(B) Within one mile, or for a parcel in a rural area, as defined in [Section 50199.21 of the Health and Safety Code](#), within two miles, of any of the following amenities:

(i) A supermarket or grocery store.

(ii) A public park.

(iii) A community center.

(iv) A pharmacy or drugstore.

(v) A medical clinic or hospital.

(vi) A public library.

(vii) A school that maintains a kindergarten or any of grades 1 to 12, inclusive.

(4) “Vacant site” means a site without any houses, offices, buildings, or other significant improvements on it.

(5)(A) “Very low vehicle travel area” means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita.

(B) For purposes of subparagraph (A), “area” may include a travel analysis zone, hexagon, or grid.

(C) For the purposes of determining “regional vehicle miles traveled per capita” pursuant to subparagraph (A), a “region” is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(b) Subject to subdivision (c), this division does not apply to any of the following:

(1) The issuance of an entitlement by a public agency for an affordable housing project.

(2) An action to lease, convey, or encumber land owned by a public agency for an affordable housing project.

(3) An action to facilitate the lease, conveyance, or encumbrance of land owned or to be purchased by a public agency for an affordable housing project.

(4) Rezoning, specific plan amendments, or general plan amendments required specifically and exclusively to allow the construction of an affordable housing project.

(5) An action to provide financial assistance in furtherance of implementing an affordable housing project.

(c) Subdivision (b) applies if the action described in subdivision (b) requires the affordable housing project to meet all of the following requirements:

(1) The affordable housing project will be subject to a recorded California Tax Credit Allocation Committee regulatory agreement.

(2) The affordable housing project site can be adequately served by existing utilities or extensions.

(3) A public agency confirms all of the following:

(A) The project site satisfies the requirements specified in [subparagraphs \(B\) to \(K\), inclusive, of paragraph \(6\) of subdivision \(a\) of Section 65913.4 of the Government Code](#).

(B) For a vacant site, the project site does not contain tribal cultural resources that could be affected by the development that were found pursuant to a consultation described in [Section 21080.3.1](#) and the effects of which cannot be mitigated pursuant to the process described in [Section 21080.3.2](#).

(C)(i) The development proponent has completed a phase I environmental assessment, as defined in [Section 25319.1 of the Health and Safety Code](#). If a recognized environmental condition is found, the development proponent shall undertake a preliminary endangerment assessment, as defined in [Section 25319.5 of the Health and Safety Code](#), prepared by an 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.

(ii) 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 current state and federal requirements.

(iii) 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 current state and federal requirements.

(D) For a project site where multifamily housing is not a permitted use, all of the following are met:

(i) None of the housing is located within 500 feet of a freeway, as defined in [Section 332 of the Vehicle Code](#).

(ii) None of the housing is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

(iii) The project site is not within a very high fire hazard severity zone, as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to [Section 4202](#) or as designated pursuant to [subdivisions \(a\) and \(b\) of Section 51179 of the Government Code](#).

(d) If a lead agency determines that an activity is not subject to this division pursuant to this section and determines to approve or carry out the activity, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the activity will occur in the manner specified in [subdivisions \(b\) and \(c\) of Section 21108](#) or [subdivisions \(b\) and \(c\) of Section 21152](#).

(e) This section shall remain in effect only until January 1, 2033, and as of that date is repealed.