



# PLANNING DIRECTOR BULLETIN NO. 5 MINISTERIAL APPROVAL PROCESSES FOR AFFORDABLE AND SUPPORTIVE HOUSING

This Bulletin outlines how the Planning Department administers ministerial approval for affordable and supportive housing.

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**References:**

CA Govt. Code Section 65913.4 - SB 35/SB 423  
CA Govt. Code Section 65650 – AB 2162  
CA Govt. Code Sections 65912.100 and 65912.110 - AB 2011  
CA 65913.16 - SB 4

## WHAT IS MINISTERIAL APPROVAL?

A ministerial decision involves only the use of fixed or objective standards, and government agencies cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Ministerial projects are not subject to environmental review under the California Environmental Quality Act (CEQA) or conditional use authorization or other similar discretionary entitlements under the Planning Code.

This bulletin includes the eligibility criteria for various ministerial programs as they apply to 100% affordable housing projects and describes how the Planning Department implements these programs. Other residential or mixed-use projects that do not include 100% affordable housing may also be eligible for ministerial approval and are described in [Planning Director Bulletin 9](#). The ministerial programs described in this Bulletin are mandated by the State of California.

## WHAT IS THE PLANNING DEPARTMENT PROCESS FOR A 100% AFFORDABLE PROJECT THAT IS ELIGIBLE FOR MINISTERIAL APPROVAL?

Projects seeking to use a ministerial program will have different submittal requirements than discretionary Planning Department submissions. Projects seeking approval under a ministerial program must submit a complete application package to the Planning Department, which may include but is not limited to:

- A supplemental application form for the applicable ministerial approval program (linked below),
- A [SB 330 Preliminary Application/Notice of Intent to Submit a Project Application Pursuant to SB 423](#), (also referred to as the “Notice of Intent” throughout this Bulletin),
- An [Individually Requested State Density Bonus Program Supplemental Application](#), and
- A PDF set of 11” x 17” plans that comply with the Department’s [Plan Submittal Guidelines](#).

As of January 1, 2024, the Planning Department will no longer require projects seeking ministerial approval to submit a building or site permit as part of a complete application submittal.

The Planning Department must determine if an application is eligible for ministerial approval within a specified timeframe depending on the size of the project, as specified by the applicable state law. If the Department determines that a project is ineligible for ministerial review, state mandated timelines will restart upon resubmittal. After the Department has determined that the project is eligible for streamlining, it must also approve the application within a specified timeframe. Planning will toll time that the project is with the applicant between the date the project is determined to be eligible for ministerial approval and the date of approval.

Once deemed compliant, the Planning Department will issue a Planning Department Approval Letter. After receiving a Planning Department Approval Letter, an applicant may submit post-entitlement building permits with the Department of Building Inspection (DBI) for review by DBI and other City agencies.

Certain ministerial approval programs require the project sponsor to submit a Phase 1 Environmental Assessment and supporting documentation for the project site. If the Phase 1 Environmental Assessment finds that hazardous materials are present, Planning staff will determine the application to be ineligible for ministerial approval until the Department of Public Health, in conjunction with the Planning Department develops conditions of approval that will successfully mitigate any hazards to insignificant levels as set forth in State Law.

### ***Pre-submittal Requirements***

Certain programs require an applicant to complete tribal notification and/or hold an informational hearing at the Planning Commission prior to submitting an application for ministerial approval. These requirements are further described in the “Pre-Submittal” section of each ministerial program below. Applicants are required to submit a [Notice of Intent](#) to initiate any required pre-submittal requirements. The Planning Department will determine that an application for ministerial approval is incomplete if it is submitted prior to completion of these pre-submittal requirements.

### ***Tribal Notification***

Tribal Notification is required for certain streamlining programs. The Planning Department is required to engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area. Department staff has 30 days from submittal from the [Notice of Intent](#) to notify these tribal groups. Within 30 days of the notification, a representative of the tribal group may request a scoping consultation with the Department. The consultation may include discussion concerning the identification, presence, and significance of Tribal Cultural Resources (TCRs), the significance of the project’s impacts on TCRs, and, as warranted, measures and alternatives to protect or reduce impacts on tribal cultural resources. If a scoping consultation is requested, Department staff will coordinate with the requestor to develop mitigation measures, which will be attached to the approval as conditions of approval. If the project sponsor does not agree to impose these measures, or the sponsor and requestor cannot agree on a set of measures, then the project is not eligible for that ministerial approval program.

Some streamlining programs only require Tribal Notification on vacant sites. In San Francisco, a vacant site is:

1. Any undeveloped parcel containing no existing buildings;
2. Any parcel that contains only a surface parking lot and no existing buildings, except buildings that are accessory to a surface parking lot use, such as a guard station or kiosk, whether or not said surface parking lot was established with the benefit of a permit, or
3. For a parcel over 15,000 square feet in size that contains a surface parking lot use, the site may include structures that are accessory to a surface parking lot use, such as those supporting General Advertising Signs, and a building that does not exceed 800 square feet in building area.

### **Informational Hearing**

SB 423 requires a public hearing for projects located in census tracts that are designated either as a moderate resource area, a low resource area, or an area of high segregation and poverty on the most recent "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development Projects. Projects located in these census tracts must present the project at a Planning Commission hearing (coordinated by Planning Staff) within 45 days of submittal of the Notice of Intent. SB 423 projects will be heard as informational items at the beginning of regularly scheduled Commission hearings. The applicant will be required to confirm, in writing, that they attended the public meeting, and have reviewed oral and written testimony in its submittal of an application for ministerial approval.

### **MINISTERIAL APPROVAL PROGRAMS + STATE DENSITY BONUS LAW**

The California State Density Bonus Law (CA Govt. Code Section 65915) offers development incentives to projects that provide on-site affordable housing. The State Law offers three categories of benefits to incentivize production of on-site affordable housing:

1. A project may seek an increase in residential density above the maximum allowable residential density,
2. A project may receive incentives or concessions (generally, defined as a reduction of development standards, modifications of zoning code requirements, or approval of mixed-use zoning) to offset the costs of providing affordable housing on-site, and
3. The City must waive any local development standard required to construct the additional density and any incentives or concessions.

Projects that meet the eligibility criteria for the State Density Bonus Law may also seek approval under ministerial approval programs. The State Density Bonus Law may be used on development sites with a base density of five units or more, except those projects that meet the eligibility criteria of Planning Code Section 206.9. Any waivers, concessions, or incentives, conferred through the State Density Bonus Law are considered code-complying, and therefore are consistent with the objective standards of the Planning Code.

The State Density Bonus Law provides a separate program for 100% affordable housing projects depending upon the projects' proximity to transit. (Govt Code § 65915(b)(1)(G)). Under this section, 100% affordable projects are entitled to form-based density, three additional stories in height (or 33 feet), up to five incentives or concessions, and unlimited waivers. Exclusive of a manager's unit or units, one hundred percent of the total units must be for low or very-low income households except that up to 20 percent of the total units in the development may be for moderate-income households.

Alternatively, 100% affordable units may seek a density bonus ranging between 20-100% depending on the affordability levels of the units provided, up to four incentives or concessions, and waivers of development standards. As further described in [Planning Director Bulletin 6](#) (regarding the State Density Bonus Program), projects in form-based zoning districts will receive a density bonus in gross floor area, while projects in zoning districts where the density is regulated by a ratio of units per lot area will receive a density bonus as a number of units. Projects also meeting the eligibility criteria of the 100% Affordable Housing and Educator Housing Streamlining Program (Planning Code Section 206.9) are considered form-based.

## OTHER CONSIDERATIONS FOR 100% AFFORDABLE PROJECTS

### ***Subsequent Permits and Post-Entitlement Permits***

When the City receives an application for a subsequent permit for a project that was approved under a ministerial program, the City is required to process the permit without unreasonable delay. City agencies may not impose any new objective standards to the subsequent permit that were not in effect at the time of the ministerial project approval. City Agencies shall review subsequent permits to implement the approved development, and review of these permits shall not chill, inhibit, or preclude the development. If a subsequent permit may not be reviewed ministerially, the issuing agency shall review the permit in accordance with CA Govt. Section 65913.4(i).

Certain permits will be considered post-entitlement permits may be reviewed ministerially pursuant to the timelines set forth CA Govt. Code Section 65913.3.

### ***Industrial Uses***

A project is ineligible for streamlined, ministerial approval under certain programs if it is on or adjacent to a site where more than 1/3 of uses are dedicated to Industrial Uses, which are defined as manufacturing, transportation maintenance and storage, and warehousing. Under Planning Code Section 102, an "Industrial Use" includes Agricultural and Beverage Processing, Automobile Wrecking, Automobile Assembly, Grain Elevator, Hazardous Waste Facility, Junkyard, Livestock Processing, Heavy Manufacturing, Light Manufacturing, Metal Working, Ship Yard, Storage Yard, Volatile Materials Storage, and Truck Terminal. For the purposes of implementation of ministerial programs, "Light Industrial Use" has the same meaning as "Industrial Use."

Additionally, the following Utility and Infrastructure uses under the Planning Code are considered to be industrial uses for the purposes of AB2011: Community Recycling Center, Internet Service Exchange, Power Plant, Public Transportation Facility, Public Utilities Yard, Utility Installation.

"Dedicated to an industrial use" means that the site is currently or was most recently used for an industrial use or designated for industrial use in a general plan adopted after January 1, 2022. Project sponsors will be required to submit an affidavit related to adjacent uses as part of an application for ministerial approval programs, if applicable.

### ***Application of the Inclusionary Affordable Housing Program***

Projects may only be exempt from the Inclusionary Affordable Housing Program (Planning Code Section 415) if it is a 100% affordable housing project in which rents are controlled or regulated by any government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development (HUD). The Mayor's Office of Housing and Community Development must represent to the Planning Commission or Planning Department that the project meets this requirement. A project may also be exempt if it is located on property is owned by the United States or any of its agencies or owned by the State of California.

### ***Development Impact Fees***

Pursuant to Planning Code Section 406, 100% affordable projects may qualify for exemptions from certain development impact fees. Generally, a project must maintain the affordability of the project for at least 55 years, must be subsidized by the Mayor's Office of Housing and Community Development (MOHCD), Department of Homelessness and Supportive Housing (HSH), and/or the Office of Community Investment and Infrastructure (OCII), and the affordable units must be priced at 80% AMI or below as published by HUD. If a 100% affordable project includes units that are priced above 80% AMI, but meets the other two criteria, the applicable development impact fees will be prorated only to apply to the units exceeding 80% AMI.

**WHAT IF MY PROJECT IS 100% AFFORDABLE, BUT IS NOT ELIGIBLE FOR MINISTERIAL APPROVAL?**

If a 100% affordable project is not eligible for a ministerial approval program, the applicant may also seek administrative approval under Planning Code Section 315. CEQA review is still required for Section 315 approval, but the project will not be subject to any discretionary action by the Planning Commission. Projects seeking approval under Section 315 are eligible for a density bonus, waivers, and incentives/concessions under the State Density Bonus Law and may be eligible for other Planning Code exceptions through Section 315.

## MINISTERIAL APPROVAL PROGRAMS

### SB 423 ([CA Govt. Code 65913.4](#))

#### Overview

Government Code Section 65913.4, commonly known as SB 35, applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goals for construction of very low, low, or above-moderate income housing. SB 35 requires local entities to streamline the approval of certain housing projects by providing a ministerial approval process.

Currently, the City does not meet its RHNA production goals for above-moderate housing, therefore under SB 423, the City must ministerially approve code compliant projects of 2 or more units (provided eligibility are met). If projects provide 11 or more units, 10% of the projects must be affordable to households at 80% AMI for ownership or 50% AMI for rental. Projects with 10 units must comply with local inclusionary requirements. Projects with 2-9 units have no affordability requirements.

This Bulletin references the program of set forth in CA Govt. Code 65913.4 as SB 423 and describes the implementation of the program for 100% affordable projects (excluding a manager's unit) in San Francisco. For more information on how SB 423 is implemented for projects with less than 100% affordable units, please refer to Planning Director Bulletin 9. For complete details about the requirements of SB 423, please refer to Government Code Section 65913.4.

#### Eligibility Criteria

A 100% affordable project is eligible for streamlining under SB 423 if it meets the following criteria:

#### Site Requirements

- **Zoning.** The development must be located on a legal parcel or parcels that allow for residential uses.
- **Location.** The development must be located on a property that is not located on prime farmland, wetlands, a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or under a conservation easement.
- **Hazardous Waste Site.** The development is not located on a property that is classified as a hazardous waste site as defined under CA Gov't Code §§ 65912.111(e) (see 65913.4(a)(6)(e)), unless the project sponsor has secured a letter from the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substance Control stating that the site is suitable for residential uses.
- **Coastal Zone.** Projects located in the Coastal Zone are prohibited until January 1, 2025. On or after January 1, 2025, the development may not be located on sites within the coastal zone that are not subject to a certified local coastal program or a certified land use plan; areas vulnerable to five feet of sea level rise; areas not zoned for multi-family housing; located within 100-feet of a wetland, or on prime agricultural land. For more information, please see the requirements in Government Code Section 65913.4(a)(6)(A).

If a project is located on a Coastal Zone site that is eligible for this program, the project sponsor shall submit a coastal zone permit, and the Department will review the project for compliance with any objective criteria of the Local Coastal Program.

- **Demolition of Residential Units.** SB 423 projects may not demolish any of the following types of housing:
  - o Units that have been occupied by tenants in the last 10 years;
  - o Units subject to any form of rent or price control, or units subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes.
  - o The project cannot be located on a site which was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent applies for approval under SB 423.
- **Historic Buildings.** SB 423 may not demolish historic structures that are on a national, state, or local historic register. A local historic register includes those properties listed within Article 10 or 11 of the San Francisco Planning Code. For Article 10 Buildings, Contributing and Contributing-Altered are considered historic while Non-contributing are not considered historic structures for the purposes of SB 423. For Article 11, Contributory and Significant buildings (I, II, III, IV) are considered historic structures while Unrated (V) buildings are not historic structures for the purposes of SB 423. The Article 10 definition of demolition will apply to both Article 10 and Article 11 properties.

### **Project Requirements**

- **Residential Use.** The development must include the construction of at least two or more residential units. At least 2/3 of the floor area of the proposed building must be dedicated to residential uses.
- **Consistent with Objective Standards.** The project must meet all objective standards of the Planning Code at the time of SB 423 application submittal.
- **Labor Requirements.** If the development is not in its entirety a public work, as defined in Government Code Section 65913.4 (a)(8)(A), all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area. The project sponsor shall certify to the City that it has met the requirements set forth in Govt. Code Section 65913.4(a)(8)(A). Projects with 10 or fewer units are exempt from the prevailing wage requirement. Project with 50 or more units must also make healthcare expenditures. Although a skilled and trained workforce, as defined in Government Code section 65913.4 (a)(8)(F), must complete the development if a project is over 85 feet in height above grade, 100% affordable housing projects (at 80% AMI or lower) are exempt from the skilled and trained workforce provisions. Please see 65913.4(a)(8) and (9) for complete details about the labor requirements for SB 423 projects.
- **Subdivisions.** An application for a subdivision is considered ministerial so long as the project includes 10 or fewer units, is not entirely a public work, and is consistent with the objective standards of the City's Subdivision Ordinance.

### **Planning Department Review Process**

Projects must submit an SB 423 Supplemental Application. For more information on the submittal requirements please see the [SB 423 Supplemental Application](#).

### **Pre-submittal requirements**

The project sponsor must complete the following prior to submittal of an SB 423 application. These are completed through the submittal of a [Notice of Intent](#).

- **Tribal notification**, as described above, is required for all SB 423 projects.
- Projects located within the CTCAC High Opportunity Zone shall present the project at an **informational hearing** at the Planning Commission. The Planning Department will schedule the informational item to occur within 45 days of the submittal of the Notice of Intent.



**Planning Review Timelines**

After meeting pre-submittal requirements, the sponsor may submit SB 423 application materials. Planning review of a SB 423 application is subject to following deadlines.

<b>Project Size</b>	<b>Determination of Complete Application Materials</b>	<b>Eligibility for Ministerial Program</b>	<b>Planning Project Approval</b>
150 units or fewer	30 days from submittal	60 days from submittal	90 days from submittal
More than 150 units	30 days from submittal	90 days from submittal	180 days from submittal

**Approval Expiration**

If an SB 423 project includes public investment in affordable housing other than tax credits and provides at least 50% of the units at 80% AMI or below, then the SB 423 approval does not expire. If the project does not meet both foregoing criteria, then the SB 423 approval shall expire after three years unless construction activity has commenced on the site (including grading and demolition) and the site permit for the project has been issued. The City may grant a one-time, one-year extension if there has been significant progress towards getting the development construction ready.



## AB 2162 ([CA Govt. Code 65650](#))

### Overview

California Assembly Bill No. 2162 (AB 2162) was effective January 1, 2019. AB 2162 requires that supportive housing be a use that is permitted by right in zones where multifamily and mixed-use development is permitted. AB 2162 amends Government Code Section 65583 and adds Code Section 65650 to require local entities to streamline the approval of housing projects containing a minimum amount of Supportive Housing. For complete details on AB 2162, please see Government Code Section 65650.

### What is Supportive Housing?

Supportive Housing is defined as housing with no limit on the length of stay, that is occupied by the target population, and is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. (CA-Health Safety Code § 50675.14). Target populations include homeless individuals, youth and families, and people with disabilities.

### Eligibility Criteria

A project is eligible for streamlining under AB-2162 if it meets the following criteria:

- **Affordability and Supportive Housing Use.** All the proposed residential units in the project, excluding the manager's unit(s), must be dedicated as affordable to households at 80% AMI or below for a period of at least 55 years. At least 25% of the total number of units, or 12 units (whichever is greater) must be restricted for residents of Supportive Housing who meet the Target Population. If there are fewer than 12 units in the project, then the entire project must be restricted for residents of Supportive Housing.
- **Supportive Services.** Supportive Services include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy. For projects with 20 units or fewer, at least 90 square feet of space must be dedicated to supportive services. For projects with more than 20 units at least 3% of the non-residential floor area must be dedicated to supportive services.
- **Zoning.** The project must be in a District that allows for multifamily (2 or more units) or mixed-use zoning.
- **Replacement of Existing Units.** If the project demolishes any existing residential unit, then the project must include replacement unit(s) in the Supportive Housing Development in the manner described in CA Govt. Code Section 65915(c)(3).
- **Amenities.** Each unit, excluding the manager's unit, must have at least a bathroom, refrigerator, stovetop and sink.
- **Consistent with Objective Standards.** The project must comply with objective, written development standards and policies which apply to other multifamily developments within the same zoning district.

### Planning Review Process

More information on the submittal requirements for an AB 2162 project may be found in the [AB 2162 Supplemental Application](#).

**Pre-submittal Requirements**

There are no pre-submittal requirements for an AB 2162 Project.

**Planning Review Timelines**

Planning review is subject to following deadlines.

<b>Project Size</b>	<b>Determination of Complete Application Materials</b>	<b>Eligibility for Ministerial Program</b>	<b>Planning Project Approval</b>
50 units or fewer	30 days from submittal	30 days from submittal	60 days from eligibility determination
More than 50 units	30 days from submittal	30 days from submittal	120 days from eligibility determination

## **AB 2011 (CA Govt. Code [65912.100](#), [65912.110](#), and [65912.130](#))**

### **Overview**

Assembly Bill 2011 (AB 2011), the Affordable Housing and High Road Jobs Act of 2022, effective July 1, 2023, requires the ministerial approval of eligible 100% affordable and mixed-income housing developments located on sites where office, retail or parking are principally permitted. In addition, to be eligible, mixed-income projects must be located on commercial corridors. All AB 2011 eligible projects must meet specified on-site affordable housing obligations and certain workforce commitments. For complete details on AB 2011, please see Government Code section 65912.110.

This Bulletin describes the implementation of AB 2011 for 100% affordable housing projects in San Francisco. For more information on how AB 2011 is implemented for mixed-income projects, please refer to [Planning Director Bulletin 9](#) and the [AB 2011 Supplemental Application](#).

### **Eligibility Criteria**

A 100% affordable housing project is eligible for streamlining under AB 2011 if it meets the following criteria:

#### **Site Requirements**

- **Zoning.** The development is located on a legal parcel in a zoning district where either office, retail, or parking is a principally permitted use. For purposes of an AB 2011 application, principally permitted means “a use that may occupy more than one-third of the square footage of designated use on the site and does not require a conditional use permit.” Projects in RH, RM, PDR, SALI, Van Ness Special Use District, Van Ness & Market SUD, and WSoMa Mixed Use Office (WMUO) district are ineligible for AB 2011 streamlining because they do not principally permit office, retail, or parking.
- **Industrial Uses.** The development is located on a legal parcel where less than 1/3 of the square footage on the site is dedicated to industrial uses, is not adjacent to a lot where more than 1/3 of the square footage on the site is dedicated to industrial uses. An adjacent lot includes a lot that is separated from the project site by a street or highway. Projects in PDR and SALI district are ineligible because they are zoned for industrial uses.
- **Location.** The development is not on a property that contains prime farmland or wetlands, or that is classified as a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or that is under a conservation easement.
- **Hazardous Waste Site.** The development is not located on a property that is classified as a hazardous waste site as defined under CA Gov't Code §§ 65912.111(e) (65913.4(a)(6)(E)), unless the project sponsor has secured a letter from the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substance Control stating that the site is suitable for residential uses.
- **Proximity to Freeways and Refineries.** The development site is located more than 500 feet from a freeway, defined in California Vehicle Code section 332, and more than 3200 feet from a facility that actively extracts or refines oil or natural gas.

**Project Requirements**

- **Affordability.** 100 percent of the units in the project, excluding manager’s units, must be dedicated to lower-income households (80% AMI and below). Units must be subject to a recorded deed restriction of 55 years for rental units, and 45 years for owner-occupied units.
- **Consistent with Objective Standards.** The project must meet all objective standards of the Planning Code at the time of AB 2011 application submittal. AB 2011 projects may also use the State Density Bonus Law. State Density bonus projects, including all requested waivers, incentives, and concessions, are considered code-complying. The setbacks required by CA Govt. Code 65912.123 may not be waived or modified by using an incentive.
- **Prevailing Wages.** If a project is not in its entirety a public work, it shall comply with the prevailing wage requirements set forth in CA Govt. Code Section 65912.130.
- **Craft Construction Employees.** In addition to the Labor Standards set forth in CA Govt. Code Section 65912.130, a project with 50 or more units shall employ construction craft employees as set forth in CA Govt. Code Section 65913.16(g).

**Planning Review Process**

More information on the submittal requirements for an AB 2011 project may be found in the [AB 2011 Supplemental Application](#).

A complete AB 2011 application must include a Phase 1 Environmental Assessment and supporting documentation for the project site. If hazardous materials are found, Planning staff will consult with the Department of Public Health to determine if the mitigation is adequate. The Department will pause the state mandated timelines during consultation with the Department of Public Health.

**Pre-submittal Requirements**

- **Tribal notification**, as described above, is required for AB 2011 projects on vacant sites only.

**Planning Review Timelines**

After meeting pre-submittal requirements, the sponsor may submit application materials. Planning review is subject to following deadlines:

<b>Project Size</b>	<b>Determination of Complete Application Materials</b>	<b>Eligibility for Ministerial Program</b>	<b>Planning Project Approval</b>
150 units or fewer	30 days from submittal	60 days from submittal	90 days from submittal
More than 150 units	30 days from submittal	90 days from submittal	180 days from submittal

**Approval Expiration**

If a project includes public investment beyond tax credits, then the AB 2011 approval will not expire. If the project does not include public investment, then the approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. The project must begin construction activity, including demolition, grading, or other site preparation activities, within three years of approval.

## SB 4 (CA Govt. Code Section [65913.16](#))

### Overview

Senate Bill 4 (SB 4) was signed by Gov. Newsom on October 11, 2023, and will become effective on January 1, 2024. SB 4 adds Section 65913.16 to the California Government Code Section and provides a ministerial approval process for 100% affordable projects located on land that was owned by an independent institution of higher education or religious institution on or before January 1, 2024. SB 4 expires on January 1, 2036.

### Definitions (See Government Code Section 65913.16(b).)

- **Independent institution of higher education** means those nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in this state and are accredited by an agency recognized by the United States Department of Education. (CA Education Code 66010)
- **Religious Institution** means an institution owned, controlled and operated, and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation or as a corporation sole pursuant to the Corporations Code.
- **Heavy Industrial Use** means a source, other than a Title V source that is subject to permitting by an air pollution control district, or an air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with Section 40000 of the Health and Safety Code)
- **Light Industrial Use** means a use that is not subject to permitting by an air pollution control district or an air quality management district created or continued in existence pursuant to provisions of the CA Health and Safety Code. For the purposes of implementing SB 4, the definitions of “industrial use” and “dedicated to industrial use” as described above shall also serve as the definitions of a “light industrial use” and “dedicated to light industrial use” under SB 4.
- **Title V Industrial Use** means a use that is only a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act (42 U.S.C. Secs. 7661 to 7661f, incl.) and the federal regulations adopted pursuant to Title V.

### Non-Residential Uses in SB 4 Projects

Religious Institutional Uses are permitted within the development so long as the total square footage of non-residential space, and the total amount of parking, does not exceed the greater of what exists at the site or is principally permitted. Religious Institutional Uses are subject to the same operating conditions as contained in the previous approval for that use.

Other than Religious Institutional Uses, an SB 4 project may include ancillary uses that are limited to the ground floor of the development. In RH-1, ancillary uses may include child-care facilities and community facilities for use by residents and members of the local community. In all other zoning districts, ancillary uses may include any principally permitted uses within that zoning district.

## Eligibility Criteria

A 100% affordable project is eligible for streamlining under SB 4 if it meets the following criteria:

### Site Requirements

- **Land Ownership.** The development is located on land owned on or before January 1, 2024, by an independent institution of higher education or by a religious institution.
- **Location.** The development is not on a property that contains prime farmland or wetlands, or that is classified as a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or that is under a conservation easement.
- **Hazardous Waste Site.** The development is not located on a property that is classified as a hazardous waste site as defined under CA Gov't Code §§ 65912.111(e) (65913.4(a)(6)(e)), unless the project sponsor has secured a letter from the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substance Control stating that the site is suitable for residential uses.
- **Demolition of Residential Units.** The project does not demolish any housing units that have been occupied by tenants in the last 10 years; are subject to any form of rent or price control, or are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes. The project cannot be located on a site which was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent applies for approval under SB 4.
- **Historic Buildings.** The project does not demolish a historic structure that is on a national, state, or local historic register. A local historic register includes those properties listed within Article 10 or 11 of the San Francisco Planning Code. For Article 10 Buildings, Contributing and Contributing-Altered are considered historic while Non-contributing are not considered historic structures for the purposes of SB 4. For Article 11, Contributory and Significant buildings (I, II, III, IV) are considered historic structures while Unrated (V) buildings are not historic structures for the purposes of SB 4. The Article 10 definition of demolition will apply to both Article 10 and Article 11 properties
- **Proximity to Industrial Uses.** A project must meet all the following criteria:
  - A project may not be adjacent to a site in which 1/3 of the uses or more are **dedicated to light industrial use**, meaning that the current use is light industrial, has been most recently permitted as light industrial, or has been identified as a light industrial site by the General Plan.
  - A project site may not be located within 1,200 feet of an existing **heavy industrial use**, or a site that has been most recently permitted as a heavy industrial use.
  - A project site may not be located within 1,600 feet of an existing **Title V industrial use**, or a site that was most recently permitted as a Title V industrial use.
  - If a project site does not permit multifamily uses, then the project may not be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.
- **Proximity to Freeway.** If the project is within 500 feet of a freeway, regularly occupied areas of the building shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value (MERV) of 13.

## **Project Requirements**

- **Affordability.** 100 percent of the total units, excluding manager's unit(s), must be for lower-income households as defined by Section 50079.5 of the Health and Safety Code (80% AMI), except that that up to 20 percent of the total units in the development may be for moderate-income households as defined in Section 50053 of the Health and Safety Code (120% AMI), and 5 percent of the units may be for staff of the independent institution of higher education or religious institution that owns the land. Units must be subject to a recorded deed restriction of 55 years for rental units, and 45 years for owner-occupied units.
- **Replacement Units.** If a project requires the demolition of residential units or is located on a site where residential units have been demolished within the past five years, the project sponsor shall comply with the replacement provisions of the Housing Crisis Act of 2019 (CA. Govt. Code Section 66300(d)).
- **Consistent with Objective Standards.** The project must meet all objective standards of the Planning Code and Subdivision Code, if applicable, at the time of SB 4 application submittal.
- **Density.**
  - o In zones that allow for residential uses, including single-family zones, SB 4 permits a minimum density at the project site of 30 units per acre. If the zoning allows for a higher density on the project site or a site adjacent to the project site, then the highest density shall apply.
  - o In zones that do not allow for residential uses, SB 4 permits a minimum density at the project site of 40 units per acre. An SB 4 project may be eligible for a density bonus, waivers and incentives/concessions under the State Density Bonus Law, except as described below for building height.
- **Height.**
  - o In zones that allow for residential uses, including single-family zones, SB 4 permits a minimum height at the project site of one story above the zoned height. If the zoning allows for a higher height limit on a site adjacent to the project site, then the higher height limit shall apply.
  - o In zones that do not allow for residential uses, SB 4 permits a minimum height at the project site of one story above the zoned height. An SB 4 project may not seek a State Density Bonus incentive, concession or waiver to increase the height above the height allowed by SB 4.
- **Prevailing Wages.** A project that includes more than 10 units that is not in its entirety a public work shall comply with the prevailing wage requirements set forth in CA Govt. Code Section 65913.16(c)(12).
- **Craft Construction Employees.** In addition to the Labor Standards set forth in CA Govt. Code Section 65912.130, a project with 50 or more units shall employ construction craft employees as set forth in CA Govt. Code Section 65913.16(g).

## **Planning Review Process**

More information on the submittal requirements for an SB 4 project may be found in the SB 4 Supplemental Application.

A Phase 1 Environmental Assessment and supporting documentation is required for all projects seeking ministerial approval under SB 4.



**Pre-submittal Requirements**

- **Tribal notification**, as described above, is required for SB 4 projects on vacant sites only.

**Planning Review Timelines**

After meeting pre-submittal requirements, the sponsor may submit application materials, review subject to following deadlines:

<b>Project Size</b>	<b>Determination of Complete Application Materials</b>	<b>Eligibility for Ministerial Program</b>	<b>Planning Project Approval</b>
150 units or fewer	30 days from submittal	60 days from submittal	90 days from submittal
More than 150 units	30 days from submittal	90 days from submittal	180 days from submittal

**Approval Expiration**

If a project includes public investment beyond tax credits, then the SB 4 approval will not expire. If the project does not include public investment, then the approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. The project must begin construction activity, including demolition, grading, or other site preparation activities, within three years of approval.



**San Francisco  
Planning**

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