



# AFFORDABLE HOUSING ON FAITH & HIGHER EDUCATION LANDS ACT

Government Code § 65913.16

## INTRODUCTION

The Affordable Housing on Faith and Higher Education Lands Act (Chapter 771, Statutes of 2023), commonly referred to as “SB 4,” provides for by-right approval of qualifying housing development on land owned by faith-based organizations and independent institutions of higher education. Effective July 2, 2024 through January 1, 2036, this law establishes a streamlined, ministerial approval process for 100 percent affordable housing projects on qualified lands, bypassing many traditional local zoning restrictions with the intent to advance California’s housing goals.

## KEY PROVISIONS

### Affordability Requirements

One hundred percent of units (excluding managers' units) must be for lower income households, except up to 20 percent may be for moderate-income households and up to 5 percent may house staff of the land-owning institution. Units must be deed-restricted for 55 years (rental) or 45 years (ownership).

### Eligibility Criteria

Qualifying SB 4 affordable housing developments are permitted in all zones, including single-family and non-residential zones. To qualify for SB 4, the property must have been owned by a religious institution or independent higher education institution (including through an affiliated nonprofit) as of January 1, 2024.

Projects are eligible for protections under the Housing Accountability Act and qualify for density bonus and other provisions under State Density Bonus Law. However, in some cases, a development cannot use a density bonus incentive, concession, or waiver to increase the height of the development beyond what is allowed as described below under “Density and Height.”

Any requested modifications to a development project approved under SB 4 must be evaluated under the same objective standards as the original application unless the total square footage of construction increases by 15 percent or more or the total number of units decreases by 15 percent or more, in which case the local government may apply objective standards adopted after the original application was submitted.

### Parcel Requirements

- ▶ **Urbanized Area or Urban Cluster.** The development site is a legal parcel(s) located in either 1) a city where the city boundaries include some portion of an urbanized area or urban cluster as designated by the United States Census Bureau

The Housing Law Fact Sheets provide an overview of existing laws which the California Department of Housing and Community Development (HCD) has statutory authority to enforce. The fact sheet does not constitute legal advice but is intended to be a resource for local agencies and decision-makers within California, including members of City Councils, Boards of Supervisors, and Planning Commissions.

or 2) for unincorporated areas, within the boundaries of an urbanized area or urban cluster as designated by the United States Census Bureau.

- ▶ **Urban Uses.** At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.
- ▶ **Tenant Protections.** If the project requires the demolition of existing housing units or is on a site where housing units have been demolished within the last five years, the project must comply with requirements for replacement of protected units as specified in the Housing Crisis Act.

The development site cannot be located on a parcel or parcels where:

- ▶ **Environmental Factors.** Certain environmental characteristics are present, including farmland, land zoned or designated for agricultural protection, wetlands, very high fire hazard severity zone, hazardous waste, earthquake fault zone, special flood hazard area, regulatory floodway, lands identified for conservation in an adopted natural community conservation plan, habitat for protected species, or lands under a conservation easement.
- ▶ **Industrial Uses.** Certain industrial uses are present or nearby, including:
  - Adjacent to a site where more than one-third of the square footage is dedicated to light industrial use;
  - Within 1,200 feet of a site permitted for heavy industrial use;
  - Within 1,600 feet of a site permitted for Title V industrial use;
  - Within 3,200 feet of an oil or natural gas refinery.
- ▶ **Tribal Cultural Resources.** Vacant sites that contain tribal cultural resources that could be affected by the development and whose effects cannot be mitigated.

### Ancillary and Previous Uses

Projects located in a single-family residential zone may include childcare centers and recreational, social, or educational facilities operated by community-based organizations. All other zones may include commercial uses that are permitted without a conditional use permit or planned unit development permit.

The development project can include any previous use that existed and was legally permitted if certain criteria are met (e.g., the project does not increase total nonresidential square footage or total parking and features the same operational conditions).

### Density and Height

- ▶ **Parcels located in a zone that allows residential use.** The minimum density varies based on the type of jurisdiction:
  - 15 units per acre for an incorporated city within a nonmetropolitan county,
  - 10 units per acre for an unincorporated area in a nonmetropolitan county,
  - 20 units per acre for a suburban jurisdiction, and

- 30 units per acre in a metropolitan county.

The permitted height is one story above the otherwise-allowed local height limits. If the local government allows for greater density on the parcel, or greater density or height is allowed on an adjoining parcel, the greater density or building height shall apply. A development also qualifies for the provisions of State Density Bonus Law, including incentives, concessions, or waivers or reductions of development standards and parking ratios.

- ▶ **Parcels located in a zone that does not allow residential use.** The minimum density is 40 dwelling units per acre and the permitted height is one story above the otherwise-allowed local height limits. If the local government allows for greater density or height on the parcel or an adjoining parcel, the greater density or building height shall apply. A development is allowed to use State Density Bonus Law, except that a development shall not use an incentive, concession, or waiver to increase the height of the development above the height authorized in this paragraph.

### Parking

One off-street parking space per unit is required, unless a state or local law allows less, except that no parking is required if the project is located within 0.5-mile walking distance of either a high-quality transit corridor or major transit stop or within 1 block of a car share vehicle.

### Prevailing Wage and Labor Requirements

The housing development project must abide by prevailing wage requirements (Labor Code sections 1720-1861), including noticing in accordance with Labor Code section 1773.35. For projects containing 50 units or more, contractors and subcontractors must satisfy health care requirements in addition to participating in an apprenticeship program approved by the State of California Division of Apprenticeship Standards or request the dispatch of apprentices from a state-approved apprenticeship program. The developer must provide the local government with a publicly available monthly report to demonstrate compliance.

### Ministerial Approval

SB 4 projects must be approved ministerially without discretionary or CEQA review, provided:

- ▶ The project meets all requirements in SB 4, including all local objective development standards that are not in conflict with SB 4, and
- ▶ The development applicant completes a Phase I environmental assessment (Health and Safety Code section 78090) and, if warranted, a Phase II environmental assessment (Health and Safety Code section 25403).

Subdivisions that are consistent with all objective standards in the local subdivision ordinance are also exempt from CEQA.

### Local Government Review

- ▶ **60- or 90-Day Review.** If the local government determines the proposed development conflicts with any of the objective standards, it shall provide written documentation and an explanation of the conflicts within 60 days of the development submittal for developments with 150 units or fewer, or within 90 days of the development submittal for developments with more than 150 units. If the local government fails to provide the documentation within the required timeframe, the development shall be deemed to satisfy the required objective planning standards.
- ▶ **Design Review Allowed.** Design review is permitted but limited to objective standards and must not in any way inhibit, chill, or preclude the ministerial approval of the development. Any design review must be completed in 90 days for developments containing 150 or fewer housing units, or 180 days for developments containing more than 150 units.
- ▶ **No Special Fees or Inclusionary Requirements.** Cities cannot impose additional fees or requirements, including inclusionary housing requirements, solely based on SB 4 eligibility.
- ▶ **Subsequent Permit(s).** A local government shall consider the application for subsequent permits based on the objective standards that were in effect when the original development application was submitted unless the applicant agrees to a change in objective standards and shall process the permit without unreasonable delay and without imposing additional procedures or requirements solely based on SB 4 approval. Subsequent permits include, and are not limited to, demolition, grading, encroachment, and building permits, and final maps where applicable.