

Updated Streamlined Ministerial Approval Process

Government Code Section 65913.4

Draft Guidelines



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The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ... [and]... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms...

Ramirez v. Yosemite Water Co., 20 Cal. 4th 785, 800 (1999)

The Department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Government Code section 65913.4, subdivision ~~(j)~~(n)

Government Code section 65913.4 relates to the resolution of a statewide concern and is narrowly tailored to limit any incursion into any legitimate municipal interests, and therefore the provisions of Government Code section 65913.4, as supplemented and clarified by these Guidelines, are constitutional in all respects and preempt any and all inconsistent laws, ordinances, regulations, policies or other legal requirements imposed by any locality.

Streamlined Ministerial Approval Process Program Guidelines

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INTRODUCTION

Chapter 366, Statutes of 2017 (SB 35, Wiener) was part of a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. Specifically, it requires the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need. Additionally, Chapter 778, Statutes of 2023 (SB 423, Wiener) updated the statute and now requires localities that have not adopted a housing element that has been found in substantial compliance with Housing Element Law by the California Department of Housing and Community Development (Department) to be subject to the Streamlined Ministerial Approval Process.

Eligible developments must include a specified level of affordability, be on an infill site, comply with existing residential and mixed-use general plan or zoning provisions, and comply with other requirements such as ~~locational~~ location and demolition restrictions. The intent of the legislation is to facilitate and expedite the construction of housing. In addition, as part of the legislation, the Legislature found that ensuring access to affordable housing is a matter of statewide concern and declared that the provisions of ~~SB 35~~ the Streamlined Ministerial Approval Process would apply to all cities and counties, including a charter city, a charter county, or a charter city and county. Please note, the ~~California Department of Housing and Community Development (Department)~~ Department may take action in cases where these Guidelines are not adhered to under its existing accountability and enforcement authority.

These updated Guidelines incorporate statutory changes to the law made by, among others, Chapter 166, Statutes of 2020 (AB 168); Chapter 194, Statutes of 2020 (AB 831); Chapter 160, Statutes 2021 (AB 1174); Chapter 658, Statutes of 2022 (AB 2668); Chapter 778, Statutes of 2023 (SB 423); Chapter 754, Statutes of 2024 (AB 3122); Chapter 774, Statutes of 2025 (SB 597); and Chapter 67, Statutes of 2025 (AB 1170). In addition, please also be aware that these Guidelines do not fully incorporate statutory changes to the law made by Chapter 166, Statutes of 2020 (AB 168) and Chapter 194, Statutes of 2020 (AB 831) at this time, which require, among other things, pre-application tribal scoping consultation. Changes required by AB 168 and AB 831 will be more fully incorporated in a subsequent version of these Guidelines, which are expected to be prepared and circulated in 2024. Developers and local governments using these Guidelines should refer to Government Code section 65913.4 for full statutory provisions to comply with any new mandates resulting from statutory changes made after these Guidelines are published to comply with these new mandates.

Guidelines for the Streamlined Ministerial Approval Process are organized into five Articles, as follows:

Article I. General Provisions: This article includes information on the purpose of the Guidelines, applicability, and definitions used throughout the document.

Article II. Determination Methodology: This article describes the methodology for by which the Department shall determine which localities are subject to the Streamlined Ministerial Approval Process.

Article III. Approval Process: This article describes the parameters of the approval process, including local government responsibilities, approval processes, and general provisions.

1) Local Government Responsibility – This section specifies the types of requirements localities may ~~require~~ impose on a development to ~~adhere to in order to~~ when determine

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determining consistency with general plan and zoning standards, including objective standards, controlling planning documents, and parking.

- 2) Development Review and Approval – This section details the types of hearings and review allowed under the Streamlined Ministerial Approval Process, timing provisions for processing and approving an application, denial requirements, and timeframes related to the longevity of the approval.

Article IV. Development Eligibility: This article describes the requirements for developments must meet in order to ~~apply~~ qualify for streamlining, including the type of housing, site requirements, affordability provisions, and labor provisions.

Article V. Reporting: This article describes reporting requirements specific to the Streamlined Ministerial Approval Process in the locality's Annual Progress Report on the general plan.

ARTICLE I. GENERAL PROVISIONS

Section 100. Purpose and Scope

- (a) These Guidelines (hereinafter “Guidelines”) implement, ~~interpret, and make specific~~ uniform standards and criteria that supplement and clarify the terms, references, and standards set forth in the Chapter 366, Statutes of 2017 (SB 35, Wiener), and subsequent amendments (hereinafter “Streamlined Ministerial Approval Process”) as authorized by Government Code section 65913.4, subdivision (n).
- (b) These Guidelines establish terms, conditions, and procedures for a development proponent to submit an application for a development to a locality that is subject to the Streamlined Ministerial Approval Process provided by Government Code section 65913.4. Nothing in these Guidelines relieves a local government from the obligation to follow state law relating to the availability of the Streamlined Ministerial Approval Process.
- (c) It is the intent of the Legislature to provide reforms and incentives to facilitate and expedite the construction of affordable housing. Therefore, these Guidelines shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, ~~increasing~~ increased housing supply.
- (d) These Guidelines shall remain in effect so long as the statute remains in effect, ~~until January 1, 2026 and as of that date are repealed.~~

~~NOTE:~~ Authority cited: Government Code section 65913.4, subdivision (n). Reference cited: Government Code sections ~~65582.1 and~~ 65913.4, subdivisions (n)(u) and ~~(v)~~.

Section 101. Applicability

- (a) The provisions of Government Code section 65913.4 are effective as of January 1, 2018.
- (b) These Guidelines are applicable to applications submitted on or after January 1, 2019, including applications submitted for modification to a development per Section 301(c) Subsequent updates to the Guidelines are applicable to applications submitted on or after the date adopted as shown on the cover page. Nothing in these Guidelines may be used to invalidate or require a modification to a development approved through the Streamlined Ministerial Approval Process prior to the effective date of the current version of the Guidelines.
- (c) These Guidelines are applicable to counties and cities, including both general law and charter cities, including a charter city and county.

~~NOTE:~~ Authority cited: Government Code section 65913.4, subdivision (n). Reference cited: Government Code section 65913.4, subdivision (m)(8).

Section 102. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Government Code section 65913.4

- (a) “Annual Progress Report (APR)” means the housing element Annual Progress Report required by Government Code section 65400, and due to the Department April 1 of each

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year, reporting on the prior calendar year's permitting activities and implementation of the programs in a local government's housing element.

- (b) "Application" means a submission requesting Streamlined Ministerial Approval pursuant to Government Code section 65913.4 and these Guidelines, which contains information pursuant to in Section 300(b)(e) describing the development's compliance with the criteria outlined in Article IV of these Guidelines.
- (c) "Area Median Income (AMI)" means the median family income of a geographic area of the state, as determined annually by the Department within the state income limits: <http://www.hcd.ca.gov/grants-funding/income-limits/index.shtml>.
- (d) "Car share vehicle" is an automobile rental model where people rent cars from a car-sharing network, or an exclusive car provided by the project, to be located in a designated area within the project, for roundtrip or one-way travel, where vehicles are returned to a dedicated or reserved parking location. An example of such a service is Zipcar or car(s) provided by the project. If the project provides an exclusive car, it shall do so at a ratio of at least one car per every 50 units.
- (e) "Consultation" means the meaningful and timely process of seeking, discussing, carefully considering the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the "State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines" prepared by the Office of Land Use and Climate Innovation.
- (f) "Density Bonus" has the same meaning as ~~set forth~~ in Government Code section 65915.
- (g) "Department" means the California Department of Housing and Community Development.
- (h) "Determination" means the published identification, periodically updated, by the Department of those local governments that are required to make the Streamlined Ministerial Approval Process available per these Guidelines.
- (i) "Development proponent" or "applicant" means a developer who submits a housing development project application to a local government under the Streamlined Ministerial Approval Process pursuant to these Guidelines. The developer may be the owner of the property, or person or entity with the written authority of the owner, that submits an application for streamlined, ministerial approval.
- (i) ~~"Fifth housing element planning period" means the five or eight year time period between the due date for the fifth revision of the housing element and the due date for the sixth revision of the housing element pursuant to Government Code section 65588(f).~~
- (j) "Health care expenditures" include contributions under Section 401(a), 501(c), or 501(d) of the Internal Revenue Code and payments toward "medical care," as defined in Section 213(3)(1) of the Internal Revenue Code.
- (k) "Housing development project" has the same meaning as defined in the Housing

Accountability Act (HAA), Government Code section 65589.5, subdivision (h)(2)(A)-(D).

- (l) “Infill” means at least 75 percent of the linear measurement of the perimeter of the site adjoins parcels that are developed with urban uses as defined in (gg) below. For the purposes of ~~this definition~~ these Guidelines, parcels that are only separated by a street or highway shall be considered to be adjoined.
- (m) “Locality” or “local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
- (n) “Low-income” means households earning 50 to 80 percent of AMI.
- (o) “Lower-income” means households earning 80 percent or less of AMI pursuant to Health and Safety Code section 50079.5.
- (p) “Ministerial processing” or “ministerial approval” means a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.
- ~~(o) “Moderate income housing units” means housing units with an affordable housing cost or affordable rent for persons and families of moderate income pursuant to Health and Safety Code section 50093.~~
- (q) “Multifamily” means a housing development with two or more attached residential units. This includes mixed-use projects as stated in Section 400(a)(b). ~~The definition does not include accessory dwelling units unless the project is for new construction of a single-family home with attached accessory dwelling units. Please note, accessory dwelling units have a separate permitting process pursuant to Government Code section 65852.2.~~
- ~~(q) “Objective standards” or “objective planning standards” means an objective zoning, objective subdivision and objective design review standard as those terms are defined in Section 102(r).~~
- (r) “Objective zoning standard,” “objective subdivision standard,” ~~and~~ “objective design review standard,” “objective standards,” and “objective planning standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official prior to submittal, ~~and~~ This includes only such standards as are published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application.
- (s) “Project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of section 2500 of the Public Contract Code.
- (t) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge a set fare fares run on fixed routes, and are available to the public.

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- (u) “Public works project” means developments which meet the criteria of Chapter 1 (commencing with section 1720) of Part 7 of Division 2 of the Labor Code.
- (v) “Regional housing need” means the local government’s share of the regional housing need allocation as determined by Article 10.6 of the Government Code.
- (w) “Related facilities” means any manager’s units and any and all common area spaces that are included within the physical boundaries of the housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities, and parking areas that are exclusively available to residential users, except any portions of the overall development that are specifically commercial space.
- (x) “Reporting period” means the timeframe for which APRs are utilized to create the determination for which a locality is subject to the Streamlined Ministerial Approval Process. The timeframes are calculated in relationship to the planning period of the housing element pursuant to Government Code section 65588 and are cumulative through the most recent calendar year. “Reporting period” means annually for the City and County of San Francisco.
- (y) “San Francisco Bay Area” means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.
- (z) “Scoping” means the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential tribal cultural resource, as defined in Section 21074 of the Public Resources Code, or California Native American tribe, as defined in Section 21073 of the Public Resources Code.
- (aa) “Site” or “project site” means the legal parcel or parcels proposed for development pursuant to these Guidelines. A site shall include the entirety of the parcel or parcels on which the development is proposed.
- (bb) “Skilled and trained workforce” has the same meaning as provided in Chapter 2.9— (commencing with section 2601 2600) of Part 1 of Division 2 of the Public Contract Code.
- (cc) “Subsequent permit” means any permit required subsequent to receiving approval under Section 301, and includes, but is not limited to, demolition, grading, encroachment permits, approval of sign programs, and tree removal permits, building permits, haul route permits, and final maps, ~~as necessary~~. “Subsequent permit” also includes any permit, or postentitlement permit, that meets the definition of “postentitlement phase permit” as set forth in Government Code section 65913.3.
- ~~(bb) “Subsidized” means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code. A local agency shall not reduce maximum rent below that specified in Health and Safety Code sections 50079.5 and 50105.~~

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- (dd) “Tenant” means a person who occupies land or property rented or leased for use as a residence.
- (ee) “Total number of units” for the purposes of establishing the number of units pursuant to the Streamlined Ministerial Approval Process means all projects developed on one site, regardless of when those developments occur, and all projects developed on sites adjacent to a site developed pursuant to the Streamlined Ministerial Approval Process, if after January 1, 2023, the adjacent site had been subdivided from the site developed pursuant to the provisions in these Guidelines.
- (ff) “Urban cluster” means an urban cluster designed by the United State Census Bureau, as published in the Federal Register, Volume 77, number 59, on March 27, 2012.
- (gg) “Urban uses” means any current or former residential, commercial, public institutional, public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, or retail use, or any combination of those uses. Urban uses include auto repair uses, self-storage facilities, golf courses, and cemeteries.
- (hh) “Urbanized area” means an urbanized area designated by the United State Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.
- (ii) “Very low-income” means households earning less than 50 percent or less of AMI pursuant to Health and Safety Code section 50105.

NOTE: Authority cited: Government Code section 65913.4, subdivision (4)(n). Reference cited: Government Code section 65913.4.

ARTICLE II. STREAMLINED MINISTERIAL APPROVAL PROCESS DETERMINATION

Section 200. Methodology

- (a) ~~The Department will calculate the determination, as defined in Section 102(g), based on permit data received through the most recent APRs provided to the Department for the mid-point of the housing element planning period pursuant to Government Code section 65488 and at the end point of the planning period.~~ Annual Progress Reports (APRs), as defined in Section 102(a), report on calendar years, while housing element planning periods may begin and end at various times throughout the year. For all jurisdictions, including the City and County of San Francisco, when a planning period begins after July, the APR for that year is attributed to the prior housing element planning period. When the planning period ends before July 1, the APR for that year will be attributed to the following housing element planning period.
- ~~(1) APRs, as defined in Section 102(a), report on calendar years, while housing element planning periods may begin and end at various times throughout the year. When a planning period begins after July, the APR for that year is attributed to the prior housing element planning period. When the planning period ends before July 1, the APR for that year will be attributed to the following housing element planning period.~~
- (b) ~~The determination is based on permitting progress toward a pro-rata share of the regional housing need for the reporting period.~~ For the City and County of San Francisco, the Department will calculate the determination, as defined in Section 102(h), each year.

based on permit data received through the most recent APR provided to the Department.

- ~~(1) Determinations calculated at the mid-point of the planning period are based upon permitting progress toward a pro-rata share of half (50 percent) of the regional housing need, while determinations calculated at the end of the planning period are based upon permitting progress towards the entirety (100 percent) of the regional housing need.~~
- ~~(2) For localities, as defined in Section 102(k), on a 5-year planning period, the mid-point determination is based upon a pro-rata share of the regional housing need for the first three years in the planning period, and 60 percent of the regional housing need.~~
- ~~(3) The determination applies to all localities beginning January 1, 2018, regardless of whether a locality has reached the mid-point of the fifth housing element planning period. For those local governments that have achieved the mid-point of the fifth housing element planning period, the reporting period includes the start of the planning period until the mid-point, and the next determination reporting period includes the start of the planning period until the end point of the planning period. In the interim period between the effective date of the Streamlined Ministerial Approval Process, until a locality reaches the mid-point in the fifth housing element planning period, the Department will calculate the determination yearly. This formula is based upon the permitting progress towards a pro-rata share of the regional housing need, dependent on how far the locality is in the planning period, until the mid-point of the fifth housing element planning period is reached. See example below.~~

Example Calculation
For a locality two years into the reporting period, the determination is calculated at two out of eight years of the planning period and will be based upon a pro-rata share of two-eighths, or 25 percent, of the regional housing need, and the following year, for the same locality, the determination will be calculated at three out of eight years of the planning period based upon a pro-rata share of three-eighths, or 37.5 percent, of the regional housing need, and the following year for the same locality the determination will be calculated at four out of eight years of the planning period based upon a pro-rata share of four-eighths, or 50 percent, of the regional housing need. At that point, the locality will reach its mid-point of the planning period and the determination, the pro-rata share, and the permitting progress toward the pro-rata share will hold until the locality reaches the end-point of the planning period.

- ~~(c) To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with 10 percent of units affordable to lower-income households, or the 20-percent moderate income option if the site is located in the San Francisco Bay Area as defined in Section 102(y), the Department shall compare the permit data received through the APR to the pro-rata share of their above-moderate income regional housing need for the current housing element planning period. If a local government has permitted less than the pro-rata share of their above-moderate income regional housing need, then the jurisdiction will be subject to the Streamlined Ministerial Approval Process for developments with 10 percent affordability or the 20 percent moderate income option if the site is located in the San Francisco Bay Area. For all jurisdictions that are not the City and County of San Francisco, the Department will calculate the determination, based on~~

permit data received through the most recent APRs provided to the Department for the mid-point of the housing element planning period pursuant to Government Code section 65588 and at the end point of the planning period.

- (d) ~~Local governments that do not submit their latest required APR prior to the Department's determination are subject to the Streamlined Ministerial Approval Process for developments with 10 percent of units affordable to lower-income households or the 20-percent moderate-income option if the site is located in the San Francisco Bay Area. The determination is based on permitting progress toward a pro-rata share of the regional housing need for the reporting period.~~
- (1) Determinations calculated at the mid-point of the planning period are based upon permitting progress toward a pro-rata share of half (50 percent) of the regional housing need, while determinations calculated at the end of the planning period are based upon permitting progress towards the entirety (100 percent) of the regional housing need.
 - (2) For localities, as defined in Section 102(m), on a 5-year planning period, the mid-point determination is based upon a pro-rata share of the regional housing need for the first three years in the planning period, and 60 percent of the regional housing need.
 - (3) Notwithstanding Section 200(c), determinations for the City and County of San Francisco are calculated each year pursuant to Section 201 based on permitting progress toward a pro-rata share of the regional housing need as reported in APRs for that planning period as defined in Section 200(a).
 - (A) Determinations calculated after the first APR of the planning period but before the second determination of the planning period are based upon permitting progress toward a pro-rata share of one-eighth (12.5 percent) of the regional housing need.
 - (B) Determinations calculated after the second APR of the planning period but before the third determination of the planning period are based upon permitting progress toward a pro-rata share of one-fourth (25 percent) of the regional housing need.
 - (C) Determinations calculated after the third APR of the planning period but before the fourth determination of the planning period are based upon permitting progress toward a pro-rata share of three-eighths (37.5 percent) of the regional housing need.
 - (D) Determinations calculated after the fourth APR of the planning period but before the fifth determination of the planning period are based upon permitting progress toward a pro-rata share of one-half (50 percent) of the regional housing need.
 - (E) Determinations calculated after the fifth APR of the planning period but before the sixth determination of the planning period are based upon permitting progress toward a pro-rata share of five-eighths (62.5 percent) of the regional housing need.

- (F) Determinations calculated after the sixth APR of the planning period but before the seventh determination of the planning period are based upon permitting progress toward a pro-rata share of three-quarters (75 percent) of the regional housing need.
 - (G) Determinations calculated after the seventh APR of the planning period but before the eighth determination of the planning period are based on permitting progress toward a pro-rata share of seven-eighths (87.5 percent) of the regional housing need.
 - (H) Determinations calculated after the eighth APR of the planning period are based upon permitting progress toward the entirety (100 percent) of the regional housing need until the determination for the first year of the next planning period is calculated based on Section 200(a).
- (e) ~~To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with 50 percent of units affordable to lower income households, the Department shall compare the permit data received through the APR to the pro-rata share of their independent very low- and low-income regional housing need for the current housing element planning period. If a local government has permitted the pro-rata share of their above-moderate income regional housing need, and submitted their latest required APR, but has permitted less than the pro-rata share of their very low- and lower-income regional housing need, they will be subject to the Streamlined Ministerial Approval Process for developments with 50 percent affordability. For purposes of these Guidelines, as the definition of lower income is inclusive of very low income units, very low income units permitted in excess of the very low income need may be applied to demonstrate progress towards the lower income need. However, as the definition of very low income units does not include low income units, low income units permitted in excess of the low income need shall not be applied to demonstrate progress towards the very low income need.~~ The Department shall compare the permit data received through the APR to the pro-rata share of the jurisdiction's above-moderate income regional housing need for the current housing element planning period. If a local government has permitted less than the pro-rata share of their above-moderate income regional housing need, then the jurisdiction will be subject to the Streamlined Ministerial Approval Process for developments with at least 10 percent of the units in a for-rent project affordable to very low-income households or with at least 10 percent of the units in a for-sale project affordable to lower-income households, or with at least 20 percent of the units in a for-sale or for-rent project affordable to households making below 100 percent of the AMI if the site is located in the San Francisco Bay Area as defined in Section 102(y).
- (f) ~~To determine if a locality is not subject to the Streamlined Ministerial Approval Process, the permit data from the APR shall demonstrate that the locality has permitted the entirety of the pro-rata share of units for the above-moderate-, low- and very low-income categories of the regional housing need for the relevant reporting period, and has submitted the latest APR.~~ Local governments that do not submit their latest required APR prior to the Department's determination are subject to the Streamlined Ministerial Approval Process for developments with at least 10 percent of the units in a for-rent

project affordable to very low-income households or with at least 10 percent of the units in a for-sale project affordable to lower-income households, or with at least 20 percent of the units in a for-sale or for-rent project affordable to households making below 100 percent of AMI if the site is located in the San Francisco Bay Area.

- (g) ~~The Department's determination will be in effect until the Department calculates the determination for the next reporting period, unless updated pursuant to section 201. A locality's status on the date the application is submitted determines whether an application is subject to the Streamlined Ministerial Approval Process, and also determines which level of affordability (10 or 50 percent) an applicant must provide to be eligible for streamlined ministerial permitting.~~ To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with at least 50 percent of units affordable to lower-income households, the Department shall compare the permit data received through the APR to the pro-rata share of the jurisdiction's independent very low- and low-income regional housing need for the current housing element planning period. If a local government has permitted the pro-rata share of their above-moderate income regional housing need, and submitted their latest required APR, but has permitted less than the pro-rata share of their very low- and lower-income regional housing need, it will be subject to the Streamlined Ministerial Approval Process for developments with at least 50 percent of the units affordable to lower-income households. For purposes of these Guidelines, as the definition of lower-income is inclusive of very low-income units, very low-income units permitted in excess of the very low-income need may be applied to demonstrate progress towards the lower-income need. However, as the definition of very low-income units does not include low-income units, low-income units permitted in excess of the low-income need shall not be applied to demonstrate progress towards the very low-income need.
- (h) If a local government has submitted its latest required APR, but has permitted less than the pro-rata share of its very low- or low-income regional housing need, it will be subject to the Streamlined Ministerial Approval Process for development applications that were submitted prior to January 1, 2019, and the project includes at least 500 units of housing, and the project seeking approval or modification to a prior approval dedicates at least 20 percent of the total units, before calculating any density bonus, as affordable units, with at least 9 percent affordable to very low-income units and the remainder affordable to low-income households.
- (i) Local governments that are in the sixth housing element cycle or earlier that did not adopt a housing element that has been found in substantial compliance with Housing Element Law (Article 10.6 (commencing with section 65580) of Chapter 3) by the Department are subject to the Streamlined Ministerial Approval Process for for-rent developments with at least 10 percent of units affordable to very low-income households or for for-sale developments with at least 10 percent of units affordable lower-income households, or at least 20 percent of units in a for-sale or for-rent project affordable to households making below 100 percent of the AMI if the site is located in the San Francisco Bay Area as defined in Section 102(y). A locality shall remain subject to the requirement in this subparagraph until the date the Department finds the sixth cycle housing element is in substantial compliance with Housing Element Law.
- (j) Local governments that are in the seventh housing element cycle or later that did not adopt a housing element that has been found in substantial compliance with Housing Element Law (Article 10.6 (commencing with section 65580) of Chapter 3) by the

Department by the statutory deadline, are subject to the Streamlined Ministerial Approval Process for for-rent developments with at least 10 percent of units affordable to very low-income households or for for-sale developments with at least 10 percent of units affordable to lower-income households, or at least 20 percent of units in a for-sale or for-rent project affordable to households making below 100 percent of the AMI if the site is located in the San Francisco Bay Area as defined in Section 102(y). A locality shall remain subject to the requirement in this subparagraph until the Department's determination for the next reporting period.

- (k) To determine if a locality is not subject to the Streamlined Ministerial Approval Process, the permit data from the APR shall demonstrate that the locality has permitted the entirety of the pro-rata share of units for the above moderate-, low-, and very low-income categories of the regional housing need for the relevant reporting period, has submitted the latest APR, and has adopted a housing element that is determined to substantially comply with Housing Element Law by the Department.
- (l) The Department's determination will be in effect until the Department calculates the determination for the next reporting period, unless updated pursuant to Section 201, or as described in paragraph (i) and (j) above. A locality's status on the date the notice of intent, in the form of a preliminary application as described in Government Code section 65941.1, is submitted determines whether an application is subject to the Streamlined Ministerial Approval Process, and also determines which level of affordability (10, 20, or 50 percent) an applicant must provide to be eligible for streamlined ministerial permitting.

NOTE: Authority cited: Government Code section 65913.4, subdivision (4)(n). Reference cited: Government Code section 65913.4, subdivisions (a)(4), (m)(12)(B).

Section 201. Timing and Publication Requirements

The Department shall publish the determination by June 30 of each year, accounting for the APR due April 1 of each year, though this determination may be updated more frequently based on the availability of data, data corrections, or the receipt of new information. The Department shall publish the determination on the Department's website.

NOTE: Authority cited: Government Code section 65913.4, subdivision (4)(n). Reference cited: Government Code section 65913.4, subdivision (a)(4).

ARTICLE III. APPROVAL PROCESS

Section 300. Local Government Responsibility

- (a) After receiving a notice of intent to submit an application for a Streamlined Ministerial Approval Process, and prior to accepting an application for a Streamlined Ministerial Approval process, the local government must complete the tribal consultation process outlined in Government Code section 65913.4, subdivision (b). The notice of intent shall be in the form of a preliminary application that includes all of the information described in Government Code section 65941.1, as that section read on January 1, 2020.
 - (1) Submittal of a notice of intent does not automatically act as a preliminary application, nor does it automatically vest the project to be subject to the ordinances, policies, and standards adopted in effect when the notice is submitted pursuant to the Housing Accountability Act (Government Code section 65589.5).

- (2) An applicant must explicitly request that the notice of intent will serve the purpose of initiating tribal consultation and as a preliminary application. The applicant must ensure a preliminary application meets current statutory submittal requirements. If the tribal consultation exceeds the 180-day requirement to submit a formal application pursuant to Government Code section 65941.1, an applicant must submit a new preliminary application to retain vesting rights.

(b) Tribal consultation

- (1) To expedite the scoping consultation process, the local government shall contact the Native American Heritage Commission for assistance in identifying any California Native American Tribe that is affiliated with the geographic area of the proposed development. The timeline for noticing and commencing a scoping consultation shall be as follows:

- (A) Within 30 calendar days of receiving the notice of intent to submit an application for Streamlined Ministerial Approval Process, the local government shall engage in scoping consultation with any California Native American tribe that is traditionally and culturally affiliated with the geographic area, as described in Section 21080.3.1 of the Public Resources Code. The local government shall provide a formal notice of the applicant's notice of intent to each tribe, and the notice must include a description and location of the project and an invitation to engage in scoping consultation.
- (B) Each California Native American tribe that receives a formal notice shall have 30 calendar days from the receipt of that notice to accept the invitation to engage in a scoping consultation.
- (C) If a local government receives a response accepting an invitation to engage in scoping consultation, the local government shall commence consultation within 30 calendar days of receiving that response.
- (D) A local jurisdiction cannot request an archeological survey from the development proponent. However, as part of the scoping consultation process, a California Native American tribe may request an archaeological survey if the tribe identifies the potential for cultural resources.

- (2) The parties involved with a scoping consultation shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe affiliated with the area may participate in the scoping consultation. Upon the request of any California Native American tribe, a local government shall engage in separate scoping consultation with the requesting tribe. A development proponent and its consultants may participate in scoping consultation if all the following conditions are met:

- (A) The development proponent and its consultants agree to comply with the principles set forth in Government Code section 65913.4, subdivision (b).
- (B) The development proponent and its consultants engage in the scoping consultation in good faith.

- (C) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping consultation process, either for the duration of the scoping consultation or with respect to a particular meeting or discussion held as part of the consultation.
- (3) Participants to a scoping consultation shall comply with the following confidentiality requirements: Government Code sections 7927.000 and 7927.005; Public Resources Code section 21082.3, subdivision (c); California Code of Regulations section 15120, subdivision (d); and any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.
- (4) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to a scoping consultation conducted pursuant to these Guidelines.
- (5) It is the local government's role to lead the consultation to conclusion. Consultation is considered concluded when one of the following occurs:

 - (A) Both parties involved with the scoping consultation find that no potential tribal cultural resource would be affected by the proposed development. It is the responsibility of the tribe to identify potential tribal resources. In this case, the development proponent may submit an application subject to the Streamlined Ministerial Approval Process.
 - (B) Both parties involved with the scoping consultation find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions to mitigate tribal cultural resource treatment. In this case, the development proponent may submit an application subject to the Streamlined Ministerial Approval Process; however, the local government shall ensure that the enforceable agreement is included in the requirements and conditions of approval for the proposed development.
- (6) If one or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to tribal cultural resources that are or may be present cannot be reached, then the development shall not be eligible for the Streamlined Ministerial Approval process.
- (7) If the development or environmental setting substantially changes, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe. A substantial change to the development is defined as an increase in the total square footage of construction by 15 percent or more after the completion of the scoping consultation.
- (8) If a local government disapproves a project and determines a project is not consistent with objective standards and a development proponent submits a new

application at the same location, the local government shall notify the California Native American tribe following the timelines in (b)(1)(A)-(D) above, and the notification must include information that the application is a resubmitted application that has been previously reviewed, and engage in a scoping consultation if requested by the California Native American tribe.

- (9) A local government may only accept an application for a Streamlined Ministerial Approval Process if one of the following applies:
- (A) A California Native American tribe that received a formal notice of the development proponent's notice of intent did not accept the invitation to engage in scoping consultation.
 - (B) The California Native American tribe accepted an invitation to engage in scoping consultation but substantially failed to engage in scoping consultation after repeated documented attempts by the local government to engage with the California Native American tribe.
 - (C) The scoping consultation concluded and all parties find that no potential tribal cultural resource will be affected by the proposed development.
 - (D) A scoping consultation between a California Native American tribe and the local government has occurred in accordance with these Guidelines and resulted in an enforceable agreement that the local government shall include in the requirements and conditions of approval for the proposed development.
- (10) A project is not eligible for the Streamlined Ministerial Approval Process if any of the following apply:
- (A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.
 - (B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation do not document an enforceable agreement on methods, measures, and conditions to mitigate tribal cultural resource treatment.
 - (C) The parties to a scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.
- (11) If the scoping consultation is conducted and it is determined a project is not eligible for the Streamlined Ministerial Approval Process for any of the reasons listed above, the local government shall provide written documentation of that fact and an explanation of the reason for which the project is not eligible to the development proponent and to any California Native American tribe that is party to the scoping consultation. The written documentation shall include information on how the development proponent may seek a discretionary permit or other review process from the local government.
- (12) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe

pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under state and federal law, or the ability of a California Native American tribe to submit information to the local government or participate in any process of the local government.

(c) Coastal development permit

- (1) In areas of the coastal zone not excluded under Section 401, a project that is eligible for the Streamlined Ministerial Approval Process in the coastal zone shall require a coastal development permit pursuant to Chapter 7 (commencing with Section 30600) of Division 20 of the Public Resources Code. A local jurisdiction with coastal development permitting authority shall approve a coastal development permit without a public hearing if it determines that the project is consistent with all objective standards of the local government's certified local coastal program, or for areas not subject to a fully certified local coastal program, the certified land use plan for that area. A local government is subject to the application review timelines outlined in Section 301 for coastal development permits.
- (2) For coastal development permits that are appealable to the California Coastal Commission, the Commission is not required to take jurisdiction over (i.e., accept) every appeal. If the California Coastal Commission finds that an appeal does not raise a substantial issue as to conformity with the objective standards of the certified local coastal program or land use plan, due to the insignificance of the coastal resources affected by the decision, or other factors, then the California Coastal Commission will not take jurisdiction over the appeal, allowing the local permit approval to stand. If the Commission took jurisdiction over an appeal, its review would be limited to determining whether the project was consistent with the objective standards of the certified local coastal program or land use plan.

(d) Projects in Moderate or Low Resource Areas

- (1) For projects in a census tract that is designated as a moderate resource area or low resource area, or an area of high segregation and poverty on the most recent California Tax Credit Allocation Committee/Department (CTCAC/HCD) Opportunity Map, within 45 calendar days after receiving a notice of intent to submit an application for Streamlined Ministerial Approval Process, and before the development proponent submits an application for the proposed development, the local government shall provide for a public meeting to be held by the city council or county board of supervisors to provide the public and the local government to comment on the development.
 - (A) The public meeting shall be held at a regular meeting and is subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).
 - (B) If the project is located within a city or unincorporated county with a population of greater than 250,000, the public meeting shall be held by the local government's planning commission.

- (C) Public comments may be provided by testimony during the meeting or in writing before the meeting concludes.
 - (D) The development proponent shall attest in writing that it attended the public meeting and reviewed the public testimony and written comments from the meeting in its application for the project.
 - (E) If the local government fails to hold the public meeting within 45 calendar days after receiving the notice of intent, the development proponent shall hold a public meeting on the proposed development before submitting an application pursuant to this section. If a development proponent holds a public meeting, the application submittal should include, but is not limited to, details of the public meeting held, such as a copy of the meeting notice which includes the date, time, location, and a copy of a certified mailing list confirming notices were mailed, a sign-in sheet, and a transcript of written and oral comments.
- (e) A local government that has been designated as subject to the Streamlined Ministerial Approval Process by the Department shall provide information, in a manner readily accessible to the general public, about the locality's process for applying and receiving ministerial approval, materials required for an application as defined in Section 102(b), and relevant objective standards to be used to evaluate the application. In no case shall a local government impose application requirements that are more stringent than required for a final multifamily entitlement or standard design review in its jurisdiction. The information provided may include reference documents and lists of other information needed to enable the local government to determine if the application is consistent with objective standards as defined by Section 102~~(e)~~(r). A local government may only require information that is relevant to and required to determine compliance with objective standards and criteria outlined in Article IV of these Guidelines. This may be achieved through the use of checklists, maps, diagrams, flow charts, or other formats. The locality's process and application requirements shall not in any way inhibit, chill, or preclude the Streamlined Ministerial Approval Process, which must be strictly focused on assessing compliance with the criteria required for streamlined projects in Article IV of these Guidelines.
- (1) Where a local government has failed to provide information pursuant to subsection (a) through (d) about the locality's process for applying and receiving ministerial approval, the local government shall accept any application that meets the requirements for a standard multifamily entitlement submittal and that contains information showing how the development complies with the requirements of Article IV. The application may include use of a list of the standards, maps, diagrams, flow charts, or other formats to meet these requirements.
 - (2) Prior to approving a development, a local government shall not require any studies, information, or other materials that do not pertain directly to determining whether the development is consistent with applicable objective standards or determining compliance with standards necessary to receive a postentitlement or subsequent permit. The review of the study shall only be limited to written objective standards. After a permit has been issued pursuant to this statute, a local government may require compliance with any standards necessary to receive a postentitlement or subsequent permit.

- (3) Notwithstanding any other law, for projects pursuant to the Streamlined Ministerial Approval Process on property owned by or leased to the state, the Department of General Services may act in the place of a local government at the discretion of the Department.

(f) Determination of consistency

- (1) When determining consistency with objective zoning, subdivision, or design review standards, the local government shall only use those standards that meet the definition referenced in Section 102(e)(r). For example, design review standards that require subjective decision-making, such as consistency with “neighborhood character,” shall not be applied as an objective standard unless “neighborhood character” is defined in such a manner that is non-discretionary.

Example Objective Design Review
Objective design review could include use of specific materials or styles, such as Spanish-style tile roofs or roof pitches with a slope of 1:5. Architectural design requirements such as “craftsman style architecture” could be used so long as the elements of “craftsman style architecture” are clearly defined (e.g., “porches with thick <u>minimum 8 inch diameter</u> round or <u>minimum 8-inch by 8-inch</u> square columns and low-pitched roofs with <u>a maximum 5/12 pitch and minimum 3-foot</u> wide eaves”), ideally with illustrations <u>that correspond with the required dimensions.</u>

- (2) A standard that requires a general plan amendment, the adoption of a specific plan, planned development zoning, or another any other discretionary permit or approval does not constitute an objective standard. A locality shall not require a development proponent to meet any standard for which the locality typically exercises subjective discretion, on a case-by-case basis.
- (3) Modifications to objective standards granted for which the development is eligible as part of a density bonus, concession, incentive, parking reduction, or waiver of development standards pursuant to the State Density Bonus Law (Government Code section 65915), or a local density bonus ordinance, shall be considered consistent with objective standards and any local coastal program. A concession, incentive, or waiver may be used to waive or modify local requirements only and cannot be used to waive eligibility requirements to qualify for the Streamlined Ministerial Approval Process.
- (4) Project eligibility for a density bonus concession, incentive, parking reduction, or waiver of development standards shall be determined consistent with according to the State Density Bonus Law.
- (5) Objective standards may include objective land use specifications adopted by a city or county, including, but not limited to, the general plan, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, and objective standards required by local ballot measures.
- (6) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective standards pursuant to Section 400(c) of these Guidelines if the development is consistent with the standards set forth in the general plan.

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(A) In no way should this paragraph be used to ~~deem~~ **determine** an application ineligible for the Streamlined Ministerial Approval Process when the project's use is consistent with Section 401(a)(3).

- (7) Developments are only subject to objective zoning standards, objective subdivision standards, and objective design review standards enacted and in effect at the time that the application is submitted to the local government.
- (8) Determination of consistency with objective standards shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply. For example, design review standards or other objective standards that serve to inhibit, chill, or preclude the development of housing under the Streamlined Ministerial Approval Process are inconsistent with the application of state law.

(g) Density calculation

(1) ~~When determining consistency with density requirements, a~~ **A** development that is compliant with up to the maximum density allowed **for the parcel** within the land use element designation of the parcel in the general plan is considered consistent with objective standards **related to density, even if the zoning or other standards would result in fewer units**. For example, a development on a parcel that has a multifamily land use designation allowing up to 45 units per acre is allowed up to 45 units per acre **even if the maximum** regardless of the density allowed pursuant to the zoning code **is only 30 units per acre**. In addition, the development may request a density of greater than 45 units per acre if eligible for a density bonus under **the State Density Bonus Law. If a development proponent requests a density bonus pursuant to the State Density Bonus Law, the maximum allowable residential density in either the applicable land use element, zoning code, specific plan, or other regulatory document applies.**

~~(2) Growth, unit, or other caps that restrict the number of units allowed in the proposed development or that expressly restricts the timing of development may be applied only to the extent that those caps do not inhibit the development's ability to achieve the maximum density allowed by the land use designation, and any density bonus the project is eligible for, and do not restrict the issuance of building permits for the project.~~

(2) Additional density, floor area, or units granted as a density bonus shall be considered consistent with maximum allowable densities.

(3) Development applications are only subject to the density standards in effect at the time that the development is submitted to the local government.

(h) Parking requirements

(1) Automobile parking standards shall not be imposed on a development that meets any of the following criteria:

(A) The development is located where any part of the parcel or parcels on which the development is located is within one-half mile of any part of the parcel or parcels of public transit, as defined by Section 102(t) of these Guidelines.

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- (B) The development is located within a district designated as architecturally or historically significant under local, state, or federal standards.
 - (C) When on-street parking permits are required but not made available to the occupants of the development.
 - (D) When there is a car share vehicle, (i.e., a designated location to pick up or drop off a car share vehicle as defined by Section 102(d)) within one block of the development. A block can be up to 1,000 linear feet of pedestrian travel along a public street from the development.
- (2) For all other developments, the local government shall not impose automobile parking requirements for ~~streamlined~~ developments subject to the Streamlined Ministerial Approval Process ~~approved pursuant to this section~~ that exceed one parking space per unit.
- (i) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, or rent levels other than ~~what is defined~~ for very-low income, lower-income, and moderate-income ~~in Section 102~~, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined processing.
- (1) A local government shall not deny a project access to local housing funds, including housing trust funds, or state housing funds solely on the basis that the project is eligible to receive streamlined processing.
 - (2) This section should not be construed to preclude a jurisdiction from waiving, reducing, or otherwise reducing fees and other costs for the project in an effort to facilitate lower project costs.

~~NOTE:~~ Authority cited: Government Code section 65913.4, subdivision (n). Reference cited: Government Code section 65913.4, subdivisions (a), (b), (c), (d), (e), (f), (i), (p), (q), (t), (u), Public Resources Code section 30625, subdivision (b), and 14 California Code of Regulations, Title 14, section 13115 ~~(e), and (n)~~.

Section 301. Development Review and Approval

- (a) Ministerial processing
- (1) Ministerial approval, as defined in Section 102~~(n)~~(p), of a project that complies with Article IV of these Guidelines shall be non-discretionary and cannot require a conditional use permit or any other type of discretionary local government review or approval.
 - (2) Ministerial design review ~~or public oversight~~ of the application is the only public hearing permitted for the project following application submission, ~~if~~ if any ministerial design review is conducted, it may be conducted by the local government's planning commission or any equivalent board or commission responsible for design review and approval of development projects, ~~or the city council or board of supervisors, as appropriate~~. Analysis of objective criteria required for the Streamlined Ministerial Approval Process should be completed through the review of the application for consistency. Therefore, any public hearing must be

strictly focused on assessing compliance with objective requirements in effect at the time of application submission, and the public hearing shall not in any way inhibit, chill, or preclude ministerial approval.

- ~~(A) Design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local government before submission of the development application, and shall be broadly applicable to development within the locality.~~
- (A) If a local government's planning director or equivalent, or the design review board or equivalent, determines that a development submitted pursuant to this section is in conflict with any of the objective ~~planning~~ standards, it shall provide the development proponent, as defined in Section 102(h)(i), written documentation in support of its denial identifying with specificity the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the timeframe specified in Section 301(b)(2) below. If the application can be brought into compliance with minor changes to the proposal, the local government may, in lieu of making the detailed findings referenced above, allow the development proponent to correct any deficiencies within the timeframes for determining project consistency specified in Section 301(b)~~(4)~~ (2)(C) below.
- (B) When determining consistency, a local government's planning director or equivalent, or the design review board or equivalent, shall find that a development is consistent with the objective ~~planning~~ standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective standards. The local government may only find that a development is inconsistent with one or more objective ~~planning~~ standards, ~~if~~ if the local government finds no substantial evidence in favor of consistency and that, based on the entire record, no reasonable person could conclude that the development is consistent with the objective standards.
- (3) A determination of inconsistency with objective ~~planning~~ standards in Section 301(b)(3)~~(A)~~ does not preclude the development proponent from correcting any deficiencies and resubmitting an application for streamlined review, or from applying for the project under other local government processes. If the development proponent elects to resubmit its application for streamlined review ~~under that Section~~, the timeframes specified in Section 301(b)(2)(C) below shall commence on the date of resubmittal.
- (4) Approval of ministerial processing does not preclude imposing standard conditions of approval as long as those conditions are objective and broadly applicable to development within the locality, regardless of streamlined approval eligibility, and such conditions implement objective standards that ~~had been adopted~~ were in effect prior at the time of ~~to~~ submission of a development application. This includes any objective process requirements related to the issuance of a building permit. However, any further approvals, such as demolition, grading and building permits or, if required, final map, shall be issued on a ministerial basis subject to the objective standards.

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- (A) Notwithstanding Paragraph ~~(5)~~(4), standard conditions that specifically implement the provisions of these Guidelines, such as a commitment for recording ~~covenants~~ covenants and restrictions and provision of prevailing wage, may be included in the conditions of approval.
- (5) The California Environmental Quality Act (Division 13 (commencing with section 21000) of the Public Resources Code) does not apply to the following in connection with projects qualifying for the Streamlined Ministerial Approval Process:
- (A) Actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to lease, convey, or encumber land or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible transit oriented development project, as defined pursuant to section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease.
- (B) Actions taken by a state agency or local government to provide financial assistance to a development that is subject to the Streamlined Ministerial Approval Process ~~receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income.~~
- (C) Approval of improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that is subject to the Streamlined Ministerial Approval Process ~~receives streamlined approval pursuant to this section where such development is to be used for housing for persons and families of very low, low, or moderate income, as defined in section 50093 of the Health and Safety Code.~~
- (D) The determination of whether an application for a development is subject to the Streamlined Ministerial Approval Process.
- (E) An application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with section 66410)) if the development is consistent with all objective standards of the Streamlined Ministerial Approval Process statute and all objective subdivision standards in the local subdivision ordinance, and meets one of the following requirements:
- i. The development has received or will receive financing or funding by means of a low-income housing tax credit.
 - ii. The development is located on a legal parcel or parcels within either an incorporated city, the boundaries of which include some portion of an urbanized area, or an urbanized area or urban cluster in a county with a population greater than 250,000.
- (b) Upon a receipt of an application, the local government shall adhere to the following:
- (1) A local government's processing of an ~~An application submitted hereunder~~ pursuant to these Guidelines is subject to the application completeness provisions of the

Permit Streamlining Act, Government Code section 65943, except that an incomplete application shall not pause the evaluation of consistency required by the local government pursuant to the timeframes in paragraph (2) below. A local government shall review an application submitted pursuant to the Streamlined Ministerial Approval Process shall be reviewed by the agency within the timeframes required under paragraph (2) below whether or not it contains all materials required by the agency for the proposed project, and it is not a basis to deny the project or determine it is inconsistent if either:

- (A) The application or modification does not contain all required materials, but contains sufficient information for a reasonable person to determine whether the development is consistent, ~~compliant, or in conformity with the requisite-~~ applicable objective standards (outlined in Article IV of these Guidelines); or
 - (B) The application contains all documents and other information required by the local government as ~~referenced~~ described in Section 300(a) of these Guidelines.
- (2) The Local governments local government's planning director or equivalent shall complete make a determination of consistency and approve the application if it is determined to be consistent, as described in Section 301(a)(3), as follows:
- (A) Within 60 calendar days of submittal of the application (not from the date the application is determined to be complete) to the local government ~~pursuant to this section~~ if the development contains 150 or fewer housing units.
 - (B) Within 90 calendar days of submittal of the application (not from the date the application is determined to be complete) to the local government ~~pursuant to this section~~ if the development contains more than 150 housing units.
 - (C) Within 30 calendar days of submittal of any development proposal that was resubmitted to address written feedback provided by the local government. Any subsequent resubmittals are subject to this 30-calendar-day review period. If the planning director or equivalent determines the resubmittal is consistent with objective standards, the planning director must approve the development within 30 calendar days of the resubmittal.
 - (D) Documentation of inconsistency(ies) with objective standards must be provided to the development proponent within the above these timeframes. If the local government government's planning director or equivalent fails to provide the required documentation determining consistency within these timeframes, the development shall be deemed to satisfy consistent with the objective planning standards and ~~shall be deemed consistent.~~
 - (E) All departments of the local government that are required to issue an approval for the development prior to granting the entitlement, including approvals for requirements such as, but not limited to, tree removal permits, shall comply with the time periods described in subparagraphs (A) through (C) above.
- (3) Notwithstanding Section 301(b)(2), design review ~~or public oversight~~ may be conducted by the local government's design review board ~~city council, board of supervisors, planning commission, or any equivalent board or commission, as~~

described in Section 301(a)(2); The local government must adopt written standards describing when design review is required and what objective design standards will be reviewed. Any design review process and shall be completed as follows:

- (A) Within 90 calendar days of submittal of the application (not from the date the application is determined to be complete) to the local government pursuant to ~~this section~~ if the development contains 150 or fewer housing units.
- (B) Within 180 calendar days of submittal of the application (not from the date the application is determined to be complete) to the local government pursuant to ~~this section~~ if the development contains more than 150 housing units.
- (C) If a local government's design review board or equivalent board or commission finds an application to be inconsistent with objective design standards and directs a development proponent to revise the project to comply with objective design standards, the design review board process shall be completed within 30 calendar days of a resubmittal.
- (D) Although design review may occur in parallel with or as part of the consistency determination set forth in paragraphs ~~(1) and~~ (2) above, failure to meet subjective design review standards or obtain design review approval from the ~~oversight~~ reviewing board based on subjective criteria shall not in any way inhibit, chill, stall, delay, or preclude a project from being approved for development pursuant to these Guidelines if objective design review standards are met. This means that discussion or consideration of the application shall only relate to objective and codified design standards in effect at the time of application submittal that meet the definition of objective pursuant to Section 102~~(r)~~(r). If the local government fails to complete design review within the timeframes provided above, the project is deemed consistent with objective design review standards.

~~(4) Approval timelines: Local government must determine if an application for a Streamlined Ministerial Approval complies with requirements and approve or deny the application pursuant to these Guidelines as follows:~~

- ~~(A) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.~~
- ~~(B) Within 180 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.~~

(4) Timeframes for determining project eligibility for a density bonus concession, incentive, parking reduction, or waiver of development standards or protections of the Housing Accountability Act (Government Code section 65589.5) shall be subject to the timeframes outlined in ~~paragraph~~ paragraphs (2) and (3) above.

(c) Modifications to the development subsequent to the approval of an application under the Streamlined Ministerial Approval Process of the ministerial review, but prior to issuance of a final building permit, shall be granted in the following circumstances:

- (1) For modification initiated by the development proponent.

- (A) ~~Following approval of an application under the Streamlined Ministerial Approval Review Process, but prior to issuance of the final building permit required for construction of the development, an An applicant may submit a written request to modify the development. The modification must conform with the following:~~
- i. ~~The change is consistent with the Streamlined Ministerial Approval Process~~ these Guidelines.
 - ii. The change is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.
 - iii. The change will not conflict with any objective provisions contained within a plan, ordinance or policy addressing community health and safety.
 - iv. If the change results in modifications to the concessions, incentives or waivers to development standards approved pursuant to the State Density Bonus Law (Government Code section 65915), then the modified concession, incentive, or waiver must continue to meet the standards of the State Density Bonus Law.
 - v. The local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:
 - I. ~~The development is revised such that the total number of residential units or total square footage of construction changes~~ increases by 15 percent or more or the total number of residential units decreases by 15 percent or more. The calculation of the square footage of construction increases shall not include underground space.
 - II. ~~The development is revised such that the total number of residential units or total square footage of construction changes~~ increases by 5 percent or more or the total number of residential units decreases by 5 percent or more, and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in ~~subparagraph (A) of paragraph (1) of subdivision (j) of Section~~ Government Code section 65589.5, subdivision (j)(1)(A), upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact. The calculation of the square footage of construction increases shall not include underground space.
 - III. Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modifications that are submitted prior to the first building permit application. Those objective building standards may be applied to modification applications submitted after the first building permit application if the development proponent

agrees to the request by the local government.

- (B) Upon receipt of the request, the local agency the planning director or equivalent shall determine if the requested modification is consistent with the local agency's objective standards in effect when the original application for the development was submitted. The local agency shall not reconsider consistency with objective ~~planning~~ standards that are not affected by the proposed modification. Approval or disapproval of the modification ~~request~~ must be completed within 60 days of submittal of the modification request or 90 days if design review is required. A proposed modification shall not cause the original approval to terminate.
 - (C) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, ~~modify~~ modifies the development's consistency with the objective ~~planning~~ standards and shall not reconsider prior determinations that are not affected by the modification.
- (2) For modification initiated by the local agency.
- (A) ~~Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, a~~ A local agency may require one-time changes to the development that are necessary to comply with the objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, or to mitigate a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse impact" has the meaning defined in Government Code section 65589.5, subdivision (d)(2). Any local standard adopted after submission of a development application, including locally adopted construction codes, shall not be considered an "objective zoning standard," "objective subdivision standard," or "objective design review standard" that is applicable to a development application.
 - (B) A determination that a change is required is a ministerial action. If a revised application is required to address these modifications, the application shall be reviewed as a ministerial approval within 60 days of ~~re-submittal~~ resubmittal of the application.
- (d) If a local government approves a development under the Streamlined Ministerial Approval Process, notwithstanding any other law, the following expiration of approval timeframes apply:
- (1) If the project includes public investment in housing affordability, beyond tax credits, including but not limited to bond financing, where 50 percent of the units are affordable to households making at or below 80 percent of the AMI, then that approval shall not expire.

- (2) If the project does not include public investment in housing affordability (including local, state, or federal government assistance) beyond tax credits, and at least 50 percent of the units are not affordable to households making at or below 80 percent of the AMI, that 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. Approval shall remain valid for a project provided that vertical construction activity, including demolition and grading activity of on the development site, has begun and is in progress. “In progress” means ~~one~~ either of the following:
- (A) The construction has begun and has not ceased for more than 180 days.
 - (B) If the development requires multiple building permits, an initial phase has been completed, and the project development proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.
- (3) The development may receive a one-time, one-year extension if the project development proponent provides documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application. The local government’s action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section. A local government may, but is not required to, allow more extensions than required by statute.
- (4) If the development proponent requests a modification to an approved project pursuant to Section 301(c), then the time during which the approval shall remain valid is extended by the number of days between the submittal of a modification request and the date of the modification approval, plus an additional 180 calendar days to allow time to obtain a building permit. If litigation is filed related to the modification request, the timing of the expiration shall be extended during the pending litigation. The extension required for a modification only applies to the first request for a modification requested by the development proponent.
- (5) Coastal development permits issued by a local government are subject to the expiration timelines above. The Coastal Act and California Coastal Commission regulations give the Commission discretion to set coastal development permit expiration dates. However, when appropriate, the Commission will seek to align permit expiration dates with statute.
- (d) ~~A local government shall issue subsequent permits as defined in Section 102(aa) required for a development approved under the Streamlined Ministerial Approval Process if the application for those permits substantially complies with the development as it was approved. Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved using the Streamlined Ministerial Approval Process. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this subsection “unreasonable delay” means permit processing times that are longer than other similar permit requests~~

~~for projects not approved using the Streamlined Ministerial Approval Process.~~

NOTE: Authority cited: Government Code section 65913.4, subdivision (h)(n). Reference cited: Government Code section 65913.4, subdivisions (a), (b), (c), (d), (g), (h), and (k) (j), and (m).

Section 302. Subsequent Permits

- (a) A local government shall issue subsequent permits, also known as postentitlement permits, as defined in Section 102~~(aa)~~(cc) required for a development approved under the Streamlined Ministerial Approval Process if the application for those permits substantially complies with the development as it was approved. A local government shall consider the application for subsequent permits based on objective standards specified in state or local laws that were in effect when the original development application was submitted unless the development proponent agrees to a change in objective standards. ~~Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved using the Streamlined Ministerial Approval Process.~~ All subsequent permits must be processed pursuant to the timelines and requirements in Government Code section 65913.3. ~~Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this subsection “unreasonable delay” means permit processing times that are longer than other similar permit requests for projects not approved using the Streamlined Ministerial Approval Process.~~ This requirement also applies to adjacent local governments that are responsible for the review and issuance of subsequent permits needed to implement the approved development subject to the Streamlined Ministerial Approval Process, such as, but not limited to, tree removal permits, encroachment permits, and other public improvement permits.
- (b) The application submittal, review, or approval of subsequent permits, such as, but not limited to, tree removal permits, encroachment permits, or other public improvement permits, may be processed concurrently with a full application but an applicant shall not be required to obtain approval of a subsequent permit prior to the approval of an application for Streamlined Ministerial Approval Process.
- (c) If a public improvement, such as, but not limited to, a bicycle lane, a sidewalk, a public transit stop, a driveway, street paving or overlay, a curb, a gutter, a modified intersection, a street sign, a street light, landscaping or hardscape, above-ground or underground utilities, water lines, fire hydrants, storm or sewer connections, a retaining wall, is required, and that public improvement is located on land owned by the local government, the local government shall not exercise its discretion over any approval related to the public improvement in a manner that would inhibit, chill, or preclude the development. If an application for a public improvement is submitted to a local government, the local government:
- (1) Shall consider an application for public improvements based on objective standards specified in any state or local laws that were in effect when the original development application was submitted;
 - (2) Shall conduct the review and approval of the public improvement application in the same manner as it would evaluate the public improvement if required by a project

not subject to the Streamlined Ministerial Approval Process. The local government must comply with the review and timing requirements set forth in Government Code section 65913.3; and

- (3) Shall not adopt or impose requirements that apply to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to the Streamlined Ministerial Approval Process.
- (4) These requirements also apply to adjacent local governments that are responsible for the review and issuance of public improvement permits needed to construct the approved development subject to the Streamlined Ministerial Approval Process.

Authority cited: Government Code section 65913.4, subdivision (n). Reference cited: Government Code section 65913.4, subdivisions (f) and (i).

ARTICLE IV. DEVELOPMENT ELIGIBILITY

Section 400. Housing Type Requirements

To qualify to apply for the Streamlined Ministerial Approval Process, the development proponent shall demonstrate that the development meets the following criteria:

- (a) Prior to submitting an application for the Streamlined Ministerial Approval Process, the development proponent must submit to the local government a notice of intent to submit an application and the local government must have completed the tribal consultation process outlined in Section 300(b) ~~Government Code section 65913.4(b)~~. The notice of intent shall be in the form of a preliminary application that includes all of the information described in Government Code section 65941.1, as that section read on January 1, 2020.
- (b) Is a multifamily housing development. This includes mixed-use projects when the project satisfied the requirement under subsection (b)(c). ~~The development offers units for rental or for sale.~~
- (c) At least two-thirds of the square footage of the development shall be designated for residential use:
 - (1) For purposes of these Guidelines, the two-thirds calculation is based upon the proportion of gross square footage of residential space and related facilities, as defined in Section 102(w), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to intended use.
 - (A) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted for which the development is eligible pursuant to the **State** Density Bonus Law shall be included in the square footage calculation.
 - (B) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages. However, any above-ground parking within a structure is calculated as area proportional to the intended use. Above-ground parking areas exclusively

available to residential users are counted toward residential square footage.

- (2) Both residential and non-residential components of a qualified mixed-use development are eligible for the Streamlined Ministerial Approval Process. Additional permitting requirements pertaining to the individual business located in the commercial component (e.g., alcohol use permit or adult business permit) are subject to local government processes.
- (3) When the commercial component is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.
- (d) The development is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time of the development application submittal ~~per~~ in accordance with Section 300 of these Guidelines, provided that any modifications to density or other concessions, incentives, or waivers ~~granted~~ for which the development is eligible pursuant to the State Density Bonus Law shall be considered consistent with such objective zoning standards, objective subdivision standards, and objective design review standards. A builder's remedy project, consistent with the Housing Accountability Act (Government Code section 65589.5) is deemed consistent with objective zoning, subdivision, and design review standards for the purposes of the Streamlined Ministerial Approval Process.

NOTE: Authority cited: Government Code section 65913.4, subdivision (j)(n). Reference cited: Government Code section 65913.4, subdivisions (a) and (b) and Government Code section 65589.5, subdivision (f).

Section 401. Site Requirements

- (a) The development proponent shall demonstrate in the application that, as of the date the application is submitted, the proposed development is located on a site that meets the following criteria:
 - (1) The site is a legal parcel, or parcels, located in either:
 - (A) 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
 - (B) An unincorporated area where the area boundaries are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
 - (2) The site meets the definition of infill as defined by Section 102(j)(l) of these Guidelines.
 - (3) At least two-thirds of the square footage of the development is designated as residential use and the site satisfies any of the following: ~~The site must be zoned for residential use or residential mixed-use development or have a general plan designation that allows residential use or a mix of residential and nonresidential uses.~~

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- (A) ~~To qualify for the Streamlined Ministerial Approval Process, the site's zoning designation, applicable specific plan or master plan designation, or general plan designation must permit residential or a mix of residential and nonresidential uses by right or with a use permit.~~ The site is zoned for residential use or residential mixed-use development or has a general plan designation that allows residential use or a mix of residential and nonresidential uses.
- (B) The site meets the requirements of Government Code section 65852.24. A project that meets the requirements of Government Code section 65852.24 shall be deemed consistent with objective standards, objective design standards, and objective subdivision standards if the project is consistent with the provisions of Government Code section 65852.24, subdivision (b), and if none of the square footage in the project is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel. For the purposes of this provision, "residential hotel" shall have the same meaning as defined in Section 50519 of the Health and Safety Code.
- (b) The development proponent shall demonstrate that, as of the date the application is submitted, the development is not located on a ~~legal parcel(s)~~ site that is any of the following:
- (1) ~~Within a~~ In an area of the coastal zone ~~that is any of the following;~~ as defined in ~~Division 20 (commencing with section 30000) of the Public Resources Code.~~
- (A) An area of the coastal zone subject to Public Resources Code section 30603, subdivision (a)(1) or (2).
- (B) An area of the coastal zone that is not subject to a certified local coastal program or certified land use plan.
- (C) An area of the coastal zone that is vulnerable to five feet of sea level rise, as determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or the local government's coastal hazards vulnerability assessment.
- (D) On a parcel in the coastal zone that is not zoned by the local government for multifamily housing. Parcels within the coastal zone that are zoned for single-family housing and permit or contain existing accessory dwelling units and units permitted pursuant to SB 9 (Government Code section 65852.21 and 66411.7), or commercial zones that permit residential development subject to the Affordable Housing and High Road Jobs Act (Government Code section 65912.100 – 65912.140) are not eligible for Streamlined Ministerial Approval Process.
- (E) On a parcel in the coastal zone and located in the following:
- i. On or within a 100-foot radius of a wetland, as defined in Section 30121 of the Public Resources Code.

the site from the list of hazardous waste sites listed pursuant to Government Code section 65962.5.

- (B) This restriction does not apply to sites the California Department of Public Health, California State Water Resources Control Board, or the Department of Toxic Substances Control, or a local agency making a determination pursuant to Health and Safety Code section 25296.10, subdivision (c). has cleared for residential use or residential mixed uses.

- (6) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist.
 - (A) This restriction does not apply if the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

- (7) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
 - (A) This restriction does not apply if the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local government.

 - (B) This restriction does not apply if the development proponent can demonstrate that they will be able to meet the minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
 - i. If the development proponent demonstrates that the development satisfies either subsection (A) or (B) above, and that the development is otherwise eligible for the Streamlined Ministerial Approval Process, the local government shall not deny the application for the development on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site related to special flood hazard areas.

 - ii. If the development proponent is seeking a floodplain development permit from the local government, the development proponent must describe in detail in the application for the Streamlined Ministerial Approval Process how the development will satisfy the applicable federal qualifying criteria necessary to obtain the floodplain development permit. Construction plans demonstrating these details shall be provided to the locality before the time of building permit issuance, however construction plans shall not be required for the local jurisdiction to take action on the application under the Streamlined Ministerial Approval Process.

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- (8) Within a regulatory floodway, as determined by the Federal Emergency Management Agency, in any official maps published by the Federal Emergency Management Agency.
 - (A) This restriction does not apply if the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
 - (B) If the development proponent demonstrates that the development satisfies subsection (A) above and that the development is otherwise eligible for the Streamlined Ministerial Approval Process, the local government shall not deny the application for development on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site related to regulatory floodways.
- (9) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), a habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or another adopted natural resource protection plan.
- (10) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or 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).
 - (A) The identification of habitat for protected species discussed above may be based upon information identified in underlying environmental review documents for the general plan, zoning ordinance, specific plan, or other planning documents associated with that parcel that require environmental review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- (11) Lands under conservation easement.
- (12) An existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).
- (c) The development proponent shall demonstrate that, as of the date the application is submitted, the development is not located on a site where any of the following apply:
 - (1) The development would require the demolition of the following types of housing:

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- (A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (B) Housing that is subject to any form of rent or price control through a locality's valid exercise of its police power.
 - (C) Housing that has been occupied by tenants, as defined by Section 102~~(cc)~~(dd), within the past 10 years.
- (2) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under the Streamlined Ministerial Approval Process.
- (A) When property with a building that was demolished in the past 10 years has been zoned for exclusively residential use, there is a presumption that it was occupied by tenants, unless the development proponent provides verifiable documentary evidence from a government or independent third party source to rebut the presumption for each of the 10 years prior to the application date.
 - (B) When property with a building that was demolished in the past 10 years has been zoned to allow residential use in addition to other uses, the developer proponent shall include in its application a description of the previous use and verification it was not occupied by residential tenants.
- (3) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register prior to the submission of an application.
- (4) The property contains housing units that are occupied by tenants and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.
- (d) A development subject to the Middle Class Housing Act of 2022 (Government Code section 65852.24) shall not be eligible for the Streamlined Ministerial Approval Process if either of the following conditions apply:
- (1) The site has previously been developed pursuant to the Streamlined Ministerial Approval Process with a project of 10 units or fewer.
 - (2) The developer of the project or any person acting in concert with the developer has previously proposed a project pursuant to the Streamlined Ministerial Approval Process of 10 units or fewer on the same or an adjacent site.
- (e) ~~A development that involves a subdivision of a parcel that is, or, notwithstanding the Streamlined Ministerial Approval Process, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land is not eligible for the Streamlined Ministerial Approval Process.~~
- ~~(1) Subdivision (d) does not apply if the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:—~~

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- ~~(A) The development has received, or will receive, financing or funding by means of a low income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to Section 403 of these Guidelines.~~
- ~~(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used.~~
- ~~(2) An application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) for a development that meets the provisions in (1) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Such an application shall be subject to a ministerial process as part of the Streamlined Ministerial Approval Process.~~

NOTE: Authority cited: Government Code section 65913.4, subdivision (f)(n). Reference cited: Government Code section 65913.4, subdivision (a), and Government Code section 65852.24(a), (c), (d).

Section 402. Affordability Provisions

- (a) A development shall be subject to a requirement mandating a minimum percentage of units be affordable to qualifying households making at or below 80 percent Area Median Income (AMI), based on one of the following categories:
 - (1) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process because the locality did not adopt a housing element pursuant to Government Code section 65588 that has been found in substantial compliance with Housing Element Law (Article 10.6 (commencing with Section 65580) of Chapter 3) by the Department, or did not submit its latest APR prior to the Department's determination, or the APR submitted reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment for that reporting period, pursuant to Section 200(c), the development shall dedicate either:
 - (A) A minimum 10 percent of the total number of ~~units prior to~~ units, before calculating any density ~~bonus~~ bonus, to housing affordable to households making at or below 80 50 percent of the AMI Area Median Income (AMI) for for-rent projects. If the locality has adopted a local ordinance that requires greater than 10 percent of the units to be dedicated to housing affordable to households making below 80 50 percent of the AMI, that local affordable housing requirement applies.
 - (B) Or, if located in the San Francisco Bay Area pursuant to Section 102 (x), the project may elect to dedicate 20 percent of the total number of units to housing affordable to households making below 120 percent of the AMI. However, to satisfy this requirement and be eligible to proceed under these provisions, the average income of the tenant income restrictions for those units must equal at or below 100 percent of the AMI. A local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the AMI, or requires that any of the units be dedicated at a level less than 120 percent. A

minimum of 10 percent of the total number of units, before calculating any density bonus, must be affordable to households making at or below 80 percent of the AMI for for-sale projects. If the locality has adopted a local ordinance that requires greater than 10 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the AMI, that local affordable housing requirement applies.

- (i) ~~In order to comply with subparagraph (A), the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the AMI shall not exceed 30 percent of the gross income of the household.~~
 - (C) ~~Developments of 10 units or less are not subject to either affordability provision outlined in subparagraphs (A) and (B), above.~~ Or, if located in the San Francisco Bay Area as defined in Section 102 (y), the project may elect to dedicate 20 percent of the total number of units, before calculating any density bonus, to housing affordable to households making below 100 percent of the AMI. However, to satisfy this requirement and be eligible to proceed under these provisions, the average income of the tenant income restrictions for those units must be at or below 80 percent of the AMI. A local ordinance adopted by the locality located in the San Francisco Bay Area applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 100 percent of the AMI. In addition, any affordability requirements of that local ordinance would apply if the ordinance requires that any of the units be dedicated at a level deeper than 100 percent of the AMI.
 - (i) In order to comply with subparagraph (C), the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 100 percent of the AMI shall not exceed 30 percent of the gross income of the household.
 - (D) ~~A development proponent may satisfy the affordability requirements of this subsection with a unit that is restricted to households with incomes lower than those prescribed under subparagraph (A) and (B).~~ Developments of 10 units or fewer are not subject to the affordability provisions outlined in subparagraphs (A) through (C), above.
 - (E) A development proponent may satisfy the affordability requirements of this subsection with units that are restricted to households with incomes lower than those prescribed under subparagraphs (A) through (C).
- (2) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process because the locality's APR reflects that there were fewer units of housing issued building permits affordable to either very low-income or low-income households than were required for the regional housing needs assessment for that reporting period, pursuant to Section 200, subparagraph (e), the development shall dedicate a minimum of 50 percent of the total number of units prior to, before calculating any density bonus bonus, to housing affordable to households making at or below 80 percent of the AMI.
- (A) If the locality has adopted a local ordinance that requires greater than 50

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percent the units be dedicated to housing affordable to households making at or below 80 percent of the AMI, that local affordable housing requirement applies.

(B) Units affordable to very low-income households include units affordable to acutely low-income households, as defined in Health and Safety Code section 50063.5, and to extremely low-income households, as defined in Health and Safety Code section 50106.

~~(3) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200, subparagraph (d), the development shall dedicate a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the AMI.~~

~~(A) If the locality has adopted a local ordinance that requires greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the AMI, that local affordable housing requirement applies.~~

~~(B) A development proponent may satisfy the affordability requirements of this subsection with a unit that is restricted to households with incomes lower than 80 percent of AMI.~~

(b) A covenant or restriction shall be recorded against the development dedicating the minimum percentage of units to housing affordable to lower- or moderate-income households making at or below 80 percent of the AMI pursuant to Section 402 (a)(1-3)~~(1)-(2)~~.

(1) The recorded covenant or restriction shall remain an encumbrance on the development for a minimum of either:

(A) 55 years for rental developments or

(B) 45 years for owner-occupied properties.

(2) The development proponent shall commit to record a covenant or restriction dedicating the required minimum percentage of units to below market housing prior to the issuance of the first building permit.

(3) The percentage of units affordable to lower- or moderate-income households making at or below 80 percent of the AMI per this section is calculated based on the total number of units in the development exclusive of additional units provided by a density bonus.

(4) The percentage of units affordable to lower- or moderate-income households making at or below 80 percent of the AMI per this section shall be built on-site as part of the development.

~~(c) The percentage of units affordable to households making at or below 80 percent of the AMI per this section is calculated based on the total number of units in the development exclusive of additional units provided by a density bonus.~~

~~(d) The percentage of units affordable to households making at or below 80 percent of the~~

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~~AMI per this section shall be built on-site as part of the development.~~

- (c) If the locality has adopted an inclusionary ordinance, the objective standards contained in that ordinance apply to the development under the Streamlined Ministerial Approval Process. For example, if the locality's adopted ordinance requires a certain percentage of the units in the development to be affordable to very low-income units, the development would need to provide that percentage of very low-income units to be eligible to use the Streamlined Ministerial Approval Process.
- (d) All affordability calculations resulting in fractional units shall be rounded up to the next whole number. Affordable units shall be distributed throughout the development, unless otherwise necessary for state or local funding programs, and have access to the same common areas and amenities as the market rate units. Identification in the development application of the location of the individual affordable units is not required for ministerial approval but distribution of units per this subsection can be included as a condition of approval per Section 301(a)(5)(4), and the methods to achieve distribution is must be recorded through an affordable housing agreement or as part of a recorded covenant or restriction, unless providing location of affordable units at time of application is required by ordinance or as an adopted objective standard.
- (e) Affordability of units to lower- or moderate-income households ~~at or below 80 percent of the AMI~~ per this Section is calculated based on the following:
- (1) For owner-occupied units, affordable housing cost is calculated pursuant to Health and Safety Code Section 50052.5.
 - (2) For rental units, affordable rent is calculated pursuant to Health and Safety Code Section 50053.
- (f) Units used to satisfy the affordability requirements pursuant to this Section may be used to satisfy the requirements of other local or state requirements for affordable housing, including local ordinances or the State Density Bonus Law (Government Code section 65915), provided that the development proponent complies with the applicable requirements in the other state or local laws. Similarly, units used to satisfy other local or state requirements for affordable housing may be used to satisfy the affordability requirements of the Streamlined Ministerial Approval Process ~~this Section~~ provided that the development proponent complies with all applicable requirements of the Streamlined Ministerial Approval Process. ~~this Section.~~
- (g) A development is subject to the affordability requirements determined by the Department at the time the notice of intent, in the form of a preliminary application as described in Government Code section 65941.1, is deemed complete and received by the local government. The level of affordability determined at the time the notice of intent in the form of a preliminary application is deemed complete and accepted by a local government shall remain fixed. For example, if a local jurisdiction that does not have a compliant housing element is subject to a minimum 10 percent affordability, and during the application review process, the local government obtains housing element compliance from the Department and is then subject to a minimum 50 percent affordability, the project shall remain subject to the 10-percent requirement. Alternatively, if the Department finds a local jurisdiction's housing element is no longer compliant, and changes from a 50 percent jurisdiction to 10 percent, a project must maintain a minimum 50-percent

affordability.

NOTE: Authority cited: Government Code section 65913.4, subdivision (h)(n). Reference cited: Government Code section 65913.4, subdivisions (a) and (m).

Section 403. Labor Provisions

The Labor Provisions in the Streamlined Ministerial Approval Process, located in paragraph (8) of subdivision (a) of Government Code section 65913.4, subdivision (a)(8), contain requirements regarding payment of prevailing wages, use of a workforce participating in an apprenticeship, health care expenditures, and use of a skilled and trained workforce in the construction of the development.

The development proponent of a development project approved by a local government pursuant to the Streamlined Ministerial Approval Process shall require in contracts with construction contractors, and shall certify both of the following to the locality to which the development application is submitted, that the following will be met during project construction:

- (a) ~~The entirety of the~~ For a development that is not in its entirety a public work project, as defined in Section 102(s)(u) above, ~~or if the development is not in its entirety a public work,~~ and is approved by the local government pursuant to Article 2 (commencing with Government Code section 65912.110) or Article 3 (commencing with Government Code section 65912.120), all of the following apply: that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
 - ~~(1) The Department of Industrial Relations posts on its website letters and decisions on administrative appeal issued by the Department in response to requests to determine whether a specific project or type of work is a “public work” covered under the state’s Prevailing Wage Laws. These coverage determinations, which are advisory only, are indexed by date and project and available at: <https://www.dir.ca.gov/OPRL/pwdecision.asp>~~
 - (1) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area as determined by the Director of Industrial Relations pursuant to Labor Code sections 1773 and 1773.9, except that apprentices registered in programs approved by the Chief of the Division Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. The general prevailing rate is determined by the Department of Industrial Relations pursuant to Labor Code sections 1773 and 1773.9.
 - (2) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work, and shall also provide notice of all contracts for the performance of the work to the Department of Industrial Relations, in accordance with Labor Code section 1773.35 for those portions of the development that are not a public work.
 - (3) All contractors and subcontractors for those portions of the development that are not a public work shall comply with the following:

- (A) Pay to all construction workers employed in the execution of the work at least the general prevailing wage of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.
 - (B) Maintain and verify payroll records pursuant to Labor Code section 1776 and make those records available for inspection and copying as provided in that section. This requirement does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement, as defined in Section 102(s) above, that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.
- (4) The obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Labor Code section 1741, which may be reviewed pursuant to Labor Code section 1742, within 18 months after the completion of the development, or an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Labor Code section 1771.2. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Labor Code section 1742.1. This does not apply if all contractors and subcontractors performing the work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides the enforcement of that obligation through an arbitration procedure.
- (5) Notwithstanding Labor Code section 1773.1(c), the requirement that employee payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing does not apply to those portions of the development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of the per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Labor Code sections 511 or 514.
- (6) ~~The general prevailing rate is determined by the Department of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. General prevailing wage-rate determinations are posted on the Department of Industrial Relations' website at: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>.~~
- (7) ~~Apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. To find out if an apprentice is registered in an approved program, please consult the Division of Apprenticeship Standards' "Apprenticeship Status and Safety Training Certification" database at <https://www.dir.ca.gov/das/appcertpw/appcertsearch.asp>.~~
- (8) ~~To find the apprentice prevailing wage rates, please visit the Department of Industrial Relations' website at:~~

~~<https://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. If you are interested in requesting an apprentice, a list of approved programs is available at: <https://www.dir.ca.gov/databases/das/aigstart.asp>. General information regarding the state's Prevailing Wage Laws is available in the Department of Industrial Relations' Public Works website (<https://www.dir.ca.gov/PublicWorks/PublicWorks.html>) and the Division of Labor Standards Enforcement Public Works Manual (<https://www.dir.ca.gov/dlse/PWManualCombined.pdf>).~~

- (9) For those portions of the development that are not a public work, all of the following shall apply:—
- ~~(A) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.~~
 - ~~(B) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.~~
 - ~~(C) All contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.
 - ~~i. The obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.~~
 - ~~ii. The payroll record and Labor Commissioner enforcement provisions in (C) and (C)(i), above, shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement, as defined in Section 102(r) above, that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.~~~~
 - ~~(D) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem~~

wages does not preclude use of an alternative workweek schedule adopted pursuant to Sections 511 or 514 of the Labor Code.

- (b) A development of 50 or more housing units approved by a local government pursuant to the Streamlined Ministerial Approval Process shall meet all of the following standards: For developments for which any of the following conditions in the charts below apply, that a skilled and trained workforce, as defined in Section 102(y) above, shall be used to complete the development if the application is approved.

Developments Located in Coastal or Bay Counties

Date	Population of Locality to which Development Submitted pursuant to the last Centennial Census	Number of Housing Units in Development
January 1, 2018, until December 31, 2021	225,000 or more	75 or more
January 1, 2022, until December 31, 2025	225,000 or more	50 or more

Developments Located in Non-Coastal or Non-Bay Counties

Date	Population of Locality to which Development Submitted pursuant to the last Centennial Census	Number of Housing Units in Development
January 1, 2018, until December 31, 2019	Fewer than 550,000	75 or more
January 1, 2020, until December 31, 2021	Fewer than 550,000	More than 50
January 1, 2022, until December 31, 2025	Fewer than 550,000	More than 25

- (1) Coastal and Bay Counties include: Alameda, Contra Costa, Del Norte, Humboldt, Los Angeles, Marin, Mendocino, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma and Ventura. The development proponent shall require in contracts with construction contractors and shall certify to the local government that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours shall satisfy the requirements in paragraphs (2) and (3) below. A construction contractor is deemed in compliance with paragraphs (2) and (3) below if it is a signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents
- (2) Non-Coastal and Non-Bay Counties include: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba. A contractor with construction craft employees shall either participate in an apprenticeship

program approved by the California Division of Apprenticeship Standards pursuant to Labor Code section 3075 or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth in Labor Code section 1777.5. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this requirement.

(A) Apprentices registered in programs approved by the Chief of Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(3) ~~The skilled and trained workforce requirement in this subparagraph is not applicable to developments with a residential component that is 100 percent subsidized affordable housing.~~ Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hours worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two adults 40 years of age and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this requirement. Qualifying expenditures shall be credited toward compliance with prevailing wage payment requirements.

(4) The development proponent shall provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with paragraphs (2) and (3) above. The reports shall be considered public records under the California Public Records Act (Division 10 (commencing with 7920.000) of Title 1) and shall be open to public inspection. A development proponent that fails to provide the monthly report shall be subject to a civil penalty for each month the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of ten thousand dollars (\$10,000). Any contractor or subcontractor that fails to comply with paragraphs (2) and (3) shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of paragraphs (2) and (3). Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments specified in Labor Code section 1741 and may be reviewed pursuant to Labor Code section 1742. Penalties shall be deposited in the State Public Works Enforcement Fund established pursuant to Labor Code section 1771.3. ~~If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:—~~

~~(A) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.~~

~~(B) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.~~

~~(C) The applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating~~

~~compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.~~

- ~~i. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided.~~
- ~~ii. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.~~
- ~~iii. The requirements in (C), (C)(i), and (C)(ii), above, do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.~~

- (5) Each construction contractor shall maintain and verify payroll records pursuant to Labor Code section 1776. Each construction contractor shall submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner in accordance with subparagraph (A) of paragraph (3) of subdivision (a) of Section 1771.4 of the Labor Code. The records shall include a statement of fringe benefits. Upon request by a joint labor management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided pursuant to Labor Code section 1776, subdivision (e).
- (6) All construction contractors shall report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days and shall reflect those changes on the monthly report. The reports shall be considered public records pursuant to the California Public Records Act (Division 10 (commencing with 7920.000) of Title 1) and shall be open to public inspection.
- (7) A joint-labor management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a construction contractor for failure to make health care expenditures pursuant to paragraph (3) above in accordance with Labor Code sections 218.7, 218.8, or 218.9.

- (c) For any project over 85 feet in height above grade, the following skilled and trained workforce provisions apply:
- (1) The developer shall enter into construction contracts with prime contractors only if all of the following are satisfied:
- (A) The contract contains an enforceable commitment that the prime contractor and subcontractors at every tier will use a skilled and trained workforce, as defined in Public Contract Code section 2601, to perform work on the project that falls within an apprenticeable occupation in the building and construction trades. However, this enforceable commitment requirement shall not apply to any scopes of work where new bids are accepted pursuant to subparagraph (2) below.
- (B) The developer or prime contractor shall establish minimum bidding requirements for subcontractors that are objective to the maximum extent possible. The developer or prime contractor shall not impose any obstacles in the bid process for subcontractors that go beyond what is reasonable and commercially customary. The developer or prime contractor must accept bids submitted by any bidder that meets the minimum criteria set forth in the bid solicitation.
- (C) The prime contractor has provided an affidavit under penalty of perjury that it will use a skilled and trained workforce and will obtain from its subcontractors an enforceable commitment to use a skilled and trained workforce for each scope of work in which it receives at least three bids attesting to satisfaction of the skilled and trained workforce requirements.
- (D) When a prime contractor or subcontractor is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the developer that provides the prime contractor and subcontractors at every tier will comply with the requirements in subsection (c). The prime contractor shall provide the developer, on a monthly basis while the project or contract is being performed, a report demonstrating compliance by the prime contractor. The prime contractor shall provide the developer, on a monthly basis while the project or contract is being performed, the monthly reports demonstrating compliance submitted to the prime contractor by the affected subcontractors.
- (2) If a prime contractor fails to receive at least three bids in a scope of construction work from subcontractors that attest to satisfying the skilled and trained workforce requirements, the prime contractor may accept new bids for that scope of work. The prime contractor need not require a skilled and trained workforce be used by the subcontractors for that scope of work.
- (A) This requirement does not apply if all contractors, subcontractors, and craft unions performing the work on the development are subject to a multicraft project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

The multicraft project labor agreement shall include all construction crafts with applicable coverage determinations for the specified scopes of work on the project pursuant to Labor Code section 1773 and shall be executed by all applicable labor organizations regardless of affiliation. For the purposes of this requirement, "project labor agreement" means a prehire construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code.

- (B) This requirement does not apply to projects where 100 percent of the units, exclusive of the manager's unit or units, are dedicated to lower income households.
- (3) If the skilled and trained workforce requirements apply, the prime contractor shall require subcontractors to provide, and subcontractors on the project shall provide an affidavit signed under penalty of perjury that, a skilled and trained workforce shall be employed on the project, and reports on a monthly basis, while the project or contract is being performed, demonstrating compliance with subsection (c).
- (4) Upon issuing any invitation or bid solicitation for the project, but no less than seven days before the bid is due, the developer shall send a notice of the invitation or solicitation that describes the project to the following entities within the jurisdiction of the proposed project site:
 - (A) Any bona fide labor organization representing workers in the building and construction trades who may perform work necessary to complete the project and the local building and construction trades council.
 - (B) Any organization representing contractors that may perform work necessary to complete the project, including any contractors' association or regional builders' exchange.
- (5) The developer or prime contractor shall, within three business days of a request by a joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), provide all of the names and Contractors State License Board numbers of the prime contractor and any subcontractors that submitted a proposal or bid for the development project and that are under contract to perform the construction work.
- (6) For all projects subject to subsection (c), the development proponent shall provide to the locality, on a monthly basis while the project or contract is being performed, a report demonstrating that the self-performing prime contractor and all subcontractors used a skilled and trained workforce, as defined in Section 2601 of the Public Contract Code. A monthly report provided to the locality shall be a public record under the California Public Records Act Division 10 (commencing with 7920.000) of Title 1 and shall be open to public inspection. A developer that fails to provide a complete monthly report shall be subject to a civil penalty of 10 percent of the dollar value of construction work performed by the contractor on the project in the month in question, up to a maximum of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided.

- (A) Any subcontractors or prime contractor self-performing work subject to the skilled and trained workforce requirements that fail to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commission within 18 months of completion of the project using the same issuance of civil wage and penalty assessments pursuant to Labor Code section 1741 and may be reviewed pursuant to the same procedures in Labor Code section 1742. Prime contractors shall not be jointly liable for violations by subcontractors. Penalties shall be paid to the State Public Works Enforcement Fund or the locality or its labor standards enforcement agency, depending on the lead entity performing the enforcement work.
- (B) Any provision of a contract or agreement of any kind between a developer and a prime contractor that purports to delegate, transfer, or assign to a prime contractor any obligations of, or penalties incurred by, a developer shall be deemed contrary to public policy and shall be void and unenforceable.
- (d) A locality, or any labor standards enforcement agency the locality lawfully maintains, shall have standing to take administrative action or sue a construction contractor for failure to comply with this Section.
- (e) Notwithstanding subsections (a) and through (b)(c), a development is exempt from any requirement to pay prevailing ~~wages~~ wages, or use a ~~skilled and trained workforce~~ participating in an apprenticeship, or provide health care expenditures if it meets both of the following:
- (1) The project includes 10 or fewer housing units.
 - (2) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
- (f) Offsite fabrication is not subject to this Section if it takes place at a permanent, offsite manufacturing facility and the location and existence of that facility is determined wholly without regard to the particular development. However, offsite fabrication performed at a temporary facility that is dedicated to the development is subject to this Section 403.

NOTE: Authority cited: Government Code section 65913.4, subdivision (n). Reference cited: Government Code section 65913.4, subdivision (a), ~~Subdivision (d) of Section 2601 of the Public Contract Code~~ section 2601, subdivision (d), Sheet Metal Workers' Internat. Assn., Local 104 v. Duncan (2014) 229 Cal. App. 4th 192, 213, disapproved on other grounds by Mendoza v. Fonseca McElroy Grinding Co., Inc. (2021) 11 Cal.5th 1118. Sheet Metal Workers' International Association, Local 104, v. John C. Duncan (2014) 229 Cal.App.4th 192 [176 Cal.Rptr.3d 634].

Section 404. Additional Provisions

- (a) ~~A local government subject to the Streamlined Ministerial Approval Process shall allow for a development proponent's use of this process. However, the~~ The ability for a development proponent to apply for the Streamlined Ministerial Approval Process shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government or available pursuant to state law,

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including, but not limited to, the use by right provisions of Housing Element Law (Government Government Code section 65583.2, subdivision (i)) ~~(i)~~, local overlays, or ministerial provisions associated with specific housing types.

- (b) A development qualifying for the Streamlined Ministerial Approval Project does not prevent a development from also qualifying as a housing development project entitled to the protections of the Housing Accountability Act (Government Code section 65589.5).

NOTE: Authority cited: Government Code section 65913.4, subdivision (i)~~(n)~~. Reference cited: Government Code section 65913.4, subdivision (i)~~(j)~~.

ARTICLE V. REPORTING

Section 500. Reporting Requirements

As part of the APR due April 1 of each year, local governments shall include the following information. This information shall be reported on the forms provided by the Department. ~~For forms and more specific information on how to report the following, please refer to the Department's Annual Progress Report Guidelines at <http://www.hcd.ca.gov/community-development/housing-element/index.shtml>~~

- (a) Number of applications submitted under the Streamlined Ministerial Approval Process.
- (b) Location and number of developments approved using the Streamlined Ministerial Approval Process.
- (c) Total number of building permits issued using the Streamlined Ministerial Approval Process.
- (d) Total number of units constructed using the Streamlined Ministerial Approval Process by tenure (renter and owner) and income category.

NOTE: Authority cited: Government Code section 65400, subdivision (a)(2)(B). Reference cited: Government Code section 65400, subdivision (a)(2)~~(E)~~(C).

Appendix A – Hyperlinks for the Department of Industrial Resources

General prevailing wage rate determinations:

<https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

To register public work projects:

<https://www.dir.ca.gov/public-works/awarding-bodies.html>

For more information on maintaining certified payroll records:

<https://www.dir.ca.gov/dlse/dlse-publicworks.htm>

Certified payroll records must be submitted electronically to the Labor Commissioner at:

<https://www.dir.ca.gov/public-works/certified-payroll-reporting.html>

To register as a contractor:

<https://www.dir.ca.gov/public-works/contractor-registration.html>

To participate in an apprenticeship program or to request dispatch of an apprentice:

<https://www.dir.ca.gov/databases/das/aigstart.asp>

To find out if an apprentice is registered in an approved program, please consult the Division of Apprenticeship Standards' "Apprenticeship Status and Safety Training Certification" database

at: <https://www.dir.ca.gov/das/appcertpw/appcertsearch.asp>

To find apprentice prevailing wage rates:

<https://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>

General information regarding the state's Prevailing Wage Laws:

<https://www.dir.ca.gov/Public-Works/PublicWorks.html>

Division of Labor Standards Enforcement Public Works Manual:

<https://www.dir.ca.gov/dlse/PWManualCombined.pdf>

For additional information on skilled and trained workforce requirements:

<https://www.dir.ca.gov/Public-Works/ADA-Compliant-STW-FAQ.pdf>

For a sample monthly report:

<https://www.dir.ca.gov/public-works/STW-1-rev.pdf>

For a search tool that confirms whether an individual is a graduate of a state-approved apprenticeship program:

<https://www.dir.ca.gov/databases/das/ApprenticeGradSearch.asp>

Appendix B – Hyperlinks for HCD Resources

For forms and specific information on how to submit an APR, please refer to the Department's Annual Progress Report Guidelines at:

<https://www.hcd.ca.gov/apr>

Income limits, as determined annually by the Department, can be found at:

<https://www.hcd.ca.gov/funding/income-limits>