

TRANSIT PRIORITY PROJECT AND TRANSIT-ORIENTED PROJECT EXEMPTIONS



Sustainable Communities Project Exemption (PRC §21155.1)

SB 375, the Sustainable Communities and Climate Protection Act of 2008, provides among other things a “Sustainable Communities Project Exemption” for transit-oriented residential and mixed-use projects consistent with a Sustainable Communities Strategy (SCS) or Alternative Planning Strategy (APS). To qualify, projects must meet the Act’s definition of a “Transit Priority Project (TPP),” which includes:

- ▶ up to 200 residential units located on up to 8 acres,
- ▶ at least 50% residential use,
- ▶ if 26-50% are non-residential uses, must have a floor-area ratio (FAR) of not less than 0.75,
- ▶ minimum density of at least 20 du/ac, and
- ▶ site within one-half mile of a major transit stop or high-quality transit corridor contained within a regional transportation plan.¹

To qualify as a TPP, a project must also meet nine eligibility criteria and seven parameters related to size, siting, and protection of affordable housing. Additionally, the project must provide at least one of three specified community benefits related to affordable housing, payment of in-lieu fees, or provision of public open space. The SCS or APS must have been accepted by the California Air Resources Board (CARB). After a public hearing where a legislative body finds that a project meets all TPP requirements, that project can be declared a “Sustainable Communities Project” and found exempt from CEQA.

See [SCP Exemption Worksheet](#) to determine eligibility considering the criteria, parameters, and community benefits.

¹ The Connect SoCal (2020 Regional Transportation Plan/Sustainable Communities Strategy) shows High Quality Transit Areas on [Exhibit 3.8](#).



Transit-Oriented Residential/Mixed-Use Implementing a Specific Plan (PRC §21155.4, CEQA Guidelines §15182)

Similar to SB 375, SB 743 also provides an exemption for residential and mixed-use projects when they are located in a “Transit Priority Area (TPA)” and consistent with an adopted Specific Plan and CARB-accepted SCS (or APS). To qualify, a project must be:

- ▶ Fully residential,
- ▶ Employment center (as defined in PRC §21099 - a project located on property zoned for commercial uses with an FAR of at least 0.75 and located within a TPA), or
- ▶ Mixed-use development.

Additionally, to qualify, the project must be:

- ▶ Located within a TPA, which is an area within one-half mile of major transit stop that is existing or planned included within a Transit Improvement Program or RTP²;
- ▶ Within and consistent with an adopted specific plan for which an EIR has been certified; and
- ▶ Consistent with a CARB-accepted SCS or APS.

A project’s size does not affect its eligibility for this exemption; there are no limits on number of units, building floor area, or size of the project site. Similarly, there are no environmental restrictions. However, this exemption cannot be applied if changes to the project, changes in circumstances, or newly available information since certification of the specific plan EIR would result in new or substantially more severe significant environmental impacts (PRC §21099[a][7]; PRC §21166; CEQA Guidelines §15162).

SB 743 also established aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment. (PRC §21099)

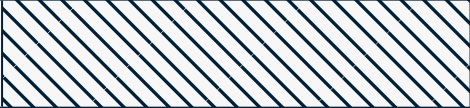
The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject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

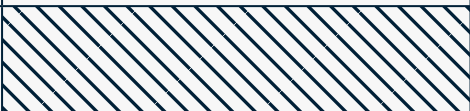
² The Connect SoCal (2020 Regional Transportation Plan/Sustainable Communities Strategy) shows Transit Priority Areas on [Exhibit 3.7](#).

WORKSHEETS

Sustainable Communities Project Exemption Checklist (PRC §21155.1)

Requirements	Applicability	Yes	No	N/A
If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c) , the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.				
(a) The transit priority project complies with all of the following environmental criteria:				
(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.	Is site served by utilities (i.e., water, wastewater, electricity, natural gas, solid waste, and stormwater drainage)?			
	If there are applicable in-lieu/development fees, has there been a commitment to pay them?			
(2) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.	The site does not contain wetlands/waters/riparian habitat that can support Special Status Species. <i>(Tip: Run a CNDDDB database search at www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data)</i>			

Requirements	Applicability	Yes	No	N/A
<p>(3) The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.</p>	<p>The site is not listed as a hazardous waste site. <i>(Tip: Search the Cortese List here: calepa.ca.gov/sitecleanup/corteselist/section-65962-5a)</i></p>			
<p>(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.</p>	<p>The project site is not subject to a preliminary endangerment assessment, or if one has been prepared has determined that the site would not expose future occupants to significant health hazards.</p>			
<p>(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.</p>	<p>The site does not include historical resources. <i>(Tip: Check for listed historical resources here: ohp.parks.ca.gov/ListedResources)</i></p>			
<p>(6) The transit priority project site is not subject to any of the following:</p>				
<p>(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.</p>	<p>The site is not in a high fire hazard severity zone. <i>(Tip: Check for fire-hazard severity zones here: osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps)</i></p>			
<p>(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.</p>	<p>The project site is not subject to risk of fire or explosion from materials stored nearby.</p>			
<p>(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.</p>	<p>The project site is not subject to public health exposure.</p>			

Requirements	Applicability	Yes	No	N/A
<p>(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.</p>	<p>The project is not within a seismic hazard zone and will comply with current building codes for seismic and other geotechnical considerations.</p> <p><i>(Tip: Check California Earthquake Hazards Zones here: maps.conservation.ca.gov/cgs/EQZApp/app)</i></p> <p><i>(Note: Compliance with the building code, other regulatory provisions, and geotechnical investigations, addresses site-specific soil conditions and ensures seismic safety.)</i></p>			
<p>(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.</p>	<p>The project is not within a landslide hazard or flood hazard zone.</p> <p><i>(Tip: Check the FEMA Flood Maps for flood risk here: msc.fema.gov/portal/search/#searchresultsanchor)</i></p>			
<p>7) The transit priority project site is not located on developed open space.</p>	<p>The project site is not developed open space.</p>			
<p>(8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.</p>	<p>The project will include energy efficient features that are 15% more efficient than Title 24 and water efficient landscaping to achieve 25% reductions than the average in the region.</p>			
<p>(b) The transit priority project meets all of the following land use criteria:</p>				
<p>(1) The site of the transit priority project is not more than eight acres in total area.</p>	<p>Is the site ≤8 acres?</p>			
<p>(2) The transit priority project does not contain more than 200 residential units.</p>	<p>Does the project include ≤200 units?</p>			

Requirements	Applicability	Yes	No	N/A
(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.	The project would not displace or result in a net loss of any affordable housing			
(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.	All single-level buildings are ≤75,000 sf.			
(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.	Applicable mitigation measures or performance standards from prior EIRs have been incorporated and/or met.			
(6) The transit priority project is determined not to conflict with nearby operating industrial uses.	The project is not within or near industrial uses or the lead agency has determined that there are no potential conflicts.			
(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.	<p>Is the project located within 0.5 mile from rail station or ferry terminal included in an RTP or within 0.25 mile of a high quality transit corridor included in an RTP?</p> <p><i>(Note: High Quality Transit Areas are shown on Exhibit 3.8 of the SCAG Connect SoCal Plan.</i> scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial-03-plan.pdf?1604533568)</p>			
(c) The transit priority project meets at least one of the following three criteria:	[Hatched pattern]			
(1) The transit priority project meets both of the following :	[Hatched pattern]			

Requirements	Applicability	Yes	No	N/A
<p>(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.</p>	<p>Does the developer commit to selling to families for very low, low-, or moderate-income households as follows:</p> <ul style="list-style-type: none"> • At least 20 percent of the housing is sold to families of moderate income. • Not less than 10 percent of the housing is rented to families of low income. • Not less than 5 percent of the housing is rented to families of very low income. <p><i>(Note: Very low, low-, or moderate-income households are defined in Section 50079.5 of the Health and Safety Code. Low- and moderate-income households are defined in Section 50079.5 of the Health and Safety Code.)</i></p>			
<p>(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.</p>	<p>Does the developer commit to continued availability and use of housing for lower income households for very low, low, and moderate income for at least 30 years for for-sale units and 55 years for rental units?</p>			
<p>(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).</p>	<p>If not providing affordable units per (1) above, does the developer agree to pay in-lieu fees pursuant to local ordinance?</p>			

Requirements	Applicability	Yes	No	N/A
<p>(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.</p>	<p>If not providing affordable units per (1) above, or paying in-lieu fees per (2) above, does the project provide public open space at or above 5 acres/1,000 residents?</p>			

Transit-Oriented Residential/Mixed-Use Implementing a Specific Plan Exemption Checklist

(PRC §21155.4, CEQA Guidelines §15182)

Requirements	Applicability	Yes	No	N/A
<p>(a) Except as provided in subdivision (b), a residential, employment center, as defined in paragraph (1) of subdivision (a) of Section 21099, or mixed-use development project, including any subdivision, or any zoning, change that meets all of the following criteria is exempt from the requirements of this division:</p>	<p>Does the project meet the definition of a residential or employment center as defined?</p> <p><i>(Note: PRC§ 21099 provides the definition of "Employment center project" which means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.)</i></p>			
<p>(1) The project is proposed within a transit priority area, as defined in subdivision (a) of Section 21099.</p>	<p>Is the project located within a transit priority area as defined?</p> <p><i>(Note: PRC§ 21099 provides the definition of "Transit priority area" which means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.)</i></p> <p>Transit Priority Areas are shown on Exhibit 3.7 of the SCAG Connect SoCal Plan scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial-03-plan.pdf?1604533568</p>			
<p>(2) The project is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified.</p>	<p>Is the project consistent with a specific plan for which an EIR has been certified?</p>			

Requirements	Applicability	Yes	No	N/A
<p>(3) The project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.</p>	<p>Is the project consistent with the RTP/SCS or APS?</p>			
<p>(b) Further environmental review shall be conducted only if any of the events specified in Section 21166 have occurred.</p>	<p>There are substantial changes or new information that would trigger the need for subsequent environmental review.</p>			