

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

December 12, 2019

TO: Interested Parties
Department of City Planning Staff

FROM: Kevin J. Keller, AICP 
Executive Officer
Department of City Planning

SUBJECT: REVISED MEMORANDUM ON IMPLEMENTATION OF AB 1197 – CEQA
EXEMPTION FOR SUPPORTIVE HOUSING AND EMERGENCY SHELTERS

On September 26, 2019, Governor Newsom signed AB 1197 (Santiago), which went into effect upon signature and will remain in effect until January 1, 2025. The bill established a new Section 21080.27 of the California Public Resources Code (PRC) to exempt from the requirements of the California Environmental Quality Act (CEQA) certain activities and actions that are approved or carried out by the City of Los Angeles related to the provision of emergency shelters and supportive housing.

Specifically, the bill creates a CEQA exemption for three types of activities related to emergency shelters and supportive housing, including: (1) any activity approved by or carried out by the City of Los Angeles “in furtherance of providing emergency shelters or supportive housing” in the City; (2) any action taken by an eligible public agency to lease land owned by the agency or provide financial assistance “in furtherance of providing emergency shelters or supportive housing” in the City; and (3) the adoption of the City’s Permanent Supportive Housing Ordinance (No. 185,492) and Interim Motel Conversion Ordinance (No. 185,489) in 2018.

Please refer to California Public Resources Code Section 21080.27 for additional guidance.

This memorandum replaces the AB 1197 memorandum previously issued by City Planning on October 16, 2019, and clarifies the process by which the Department will verify eligible project funding sources prior to the issuance of a building permit.

Definitions

Emergency Shelter

An emergency shelter is defined for the purposes of this bill as, during a declaration of a shelter crisis described in Government Code Section 8698.2, any shelter that meets all of the following requirements:

1. The shelter meets the definition of a Low Barrier Navigation Center set forth in Government Code Section 65660; and
2. The shelter meets the requirements of Government Code Section 65662; and

3. The shelter is located in either a mixed-use or nonresidential zone permitting multifamily uses,¹ or infill site;² and
4. The shelter is funded, in whole or in part, by any of the following:
 - a. The Homeless Emergency Aid program (Health and Safety Code Section 50211); or
 - b. The Homeless Housing, Assistance, and Prevention (HEAP) program (Health and Safety Code Section 50217); or
 - c. County of Los Angeles Measure H funds; or
 - d. City of Los Angeles Measure HHH funds.

The City of Los Angeles is currently operating under a declared shelter crisis pursuant to Government Code Section 8698.2 (CF 15-1138-S33).

An approved letter of commitment from the applicable funding agency or an official record of final City Council action to issue funds will be required prior to issuance of a building permit to confirm that the emergency shelter is funded, in whole or in part, by one of the applicable funding sources.

Supportive Housing

Supportive housing is defined for the purposes of this bill as housing with no limit on length of stay, that is occupied by persons, including persons with disabilities, and families who are homeless or who are homeless youth, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Such supportive housing development must additionally meet the following two requirements:

1. The supportive housing development meets the eligibility requirements of any of the following:
 - a. Government Code Section 65650 (AB 2162); or
 - b. An Interim Motel Housing Project pursuant to Los Angeles Municipal Code (LAMC) Section 14.00 A.12; or
 - c. Qualified Permanent Supportive Housing pursuant to LAMC Section 14.00 A.13; and
2. The supportive housing development is funded, in whole or in part, by any of the following:
 - a. The No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code); or

¹ For the purposes of determining whether a shelter is located in a mixed-use or nonresidential zone permitting multifamily uses, the following zones may be eligible: RAS3, RAS4, CR, C1, C1.5, C2, C4, C5, CM, and HI. Additionally, the PF zone may be eligible if the site is adjoining a zone that allows for mixed uses or a nonresidential zone permitting multifamily uses. Various Specific Plan zone designations may also be eligible; however, additional review may be necessary on a case-by-case basis to determine eligibility of sites with Specific Plan zone designations.

² A site may be considered an “infill site” if it meets the definition provided in PRC Sections 21061.3 and 21072, meaning that the site either: (1) was previously developed for a “qualified urban use,” which includes most non-industrial uses; or (2) is adjacent to parcels that are developed with a “qualified urban use” (or at least 75 percent of the perimeter adjoins parcels that are so developed, and the remaining 25 percent were previously developed with a “qualified urban use”), and none of the parcels on the site had been created within the past 10 years except through a redevelopment agency plan. This definition is likely generally applicable to most non-industrial sites within the City of Los Angeles. Any industrial-zoned or industrial-zone-adjacent sites should be carefully evaluated to determine whether the site and/or adjacent sites are or were “developed with qualified urban uses,” or whether they are instead developed with potentially non-qualifying “industrial” uses.

- b. The Building Homes and Jobs Trust Fund (Health and Safety Code Section 50470); or
- c. County of Los Angeles Measure H funds; or
- d. City of Los Angeles Measure HHH funds; or
- e. The City of Los Angeles Housing Impact Trust Fund.

For the purposes of determining whether a supportive housing development is funded, in whole or in part, by one of the applicable funding sources, the applicant must indicate which funding source(s) identified above will be committed to the development project. Prior to issuance of a building permit, the applicant shall provide, as applicable, an approved letter of funding commitment from the applicable funding agency, which indicates that the project has been awarded funds from one of the five above-listed funding sources. The Department will include this funding source requirement as a condition of approval for any discretionary planning entitlements. Prior to issuance of a building permit, the Department will confirm that the project has received clearance from the Housing and Community Investment Department (HCIDLA), or other funding agency, as applicable, to ensure that the project continues to meet the eligibility criteria and all applicable funding sources are in place.

Activities Eligible for New Statutory Exemption (PRC Section 21080.27(b)(1))

Any activity that is carried out by the City of Los Angeles in order to provide emergency shelters or supportive housing that meet the definitions set forth above would qualify for the CEQA exemption provided in PRC Section 21080.27(b)(1). This exemption would include, but is not limited to, approval of discretionary planning entitlements, haul routes, and/or funding decisions.

The CEQA exemption encompasses the approval of planning entitlements that solely enable the proposed emergency shelter or supportive housing use, including but not limited to any necessary Zone Change, General Plan Amendment, Conditional Use Permit, or other required land use action that results in a project that meets the requirements discussed above. In such cases, the Letter of Determination (LOD) issued by the Department should include a project description which specifies that the use is limited to a qualifying emergency shelter or supportive housing development as defined by the bill. The CEQA findings included in the LOD should specify how the project qualifies for the exemption, and the LOD should also include the condition that the project must receive clearance by HCIDLA, or other applicable funding agency, to confirm the qualifying funding source prior to issuance of a building permit.

Procedures

Applicants for emergency shelter and supportive housing projects that are eligible for the CEQA exemption in PRC Section 21080.27 should file a Notice of Exemption with the Office of Planning and Research (OPR) and the Los Angeles County Clerk pursuant to the procedures set forth in PRC 21108 or PRC Section 21152. The Notice of Exemption should include a written justification supporting how the project qualifies as an “emergency shelter” or “supportive housing” under 21080.27(a).

For supportive housing projects that are requesting a discretionary planning entitlement, the applicant will be requested to sign a disclosure form, acknowledging that the funding source requirement will be included as a condition of approval.

For emergency shelter and supportive housing projects that are currently pending review of a discretionary planning entitlement, applicants are advised to consult with their assigned Department of City Planning project planner to evaluate the applicability of this CEQA exemption.

More Information

For more information, please contact Cally Hardy in the Department of City Planning at cally.hardy@lacity.org or (213) 978-1643.