

# What are Objective Design Standards?

## Frequently Asked Questions

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### Overview

Objective design standards are the only basis a local agency may use to deny or reduce the density of certain eligible projects and are the only way for local agencies to shape the design of certain projects. These frequently asked questions provide information about the purpose, applicability, and role of objective design standards required by different State laws.

### Purpose

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.

## FREQUENTLY ASKED QUESTIONS

### 1. What are objective design standards?

Objective design standards (ODS) include a broad set of standards used by a local agency to regulate development. As described in Senate Bill 35<sup>1</sup>, ODS are defined as:

*“objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean 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 development applicant or proponent and the public official before submittal.*<sup>2</sup>

ODS are also similarly defined as part of the Housing Crisis Act (“SB 330”), and other state laws.<sup>3</sup>

### 2. Why do local agencies need objective design standards?

There have been several recent changes in State law that limit a local agency’s ability to use subjective design guidelines, which can no longer be used to deny certain residential development applications. ODS are the only basis a local agency may use to deny or reduce the density of certain eligible projects, and are the only way for local agencies to shape the design of certain projects.

### 3. What if a local agency does not have objective design standards?

Many jurisdictions already have ODS related to setbacks, height, lot area coverage, floor area ratios, density, and other topics as part of their zoning code, general plan, and other land development regulations. However, local agencies that do not adopt additional ODS may lose the opportunity to shape the design of projects if any subjective design guidelines or other criteria are currently used as part of the review of projects. Jurisdictions that do not have ODS will still be required to review and act on certain eligible projects through a by-right or streamlined ministerial approval process, whether or not there are ODS. Criteria that is subjective cannot be used to deny or reduce the density of certain eligible projects.

A local agency may elect to adopt new ODS by modifying existing subjective design guidelines that are currently a part of the local agency’s zoning code, stand-alone design guidelines, specific plans, and/or other requirements. In many jurisdictions, ODS act as a supplement to the zoning code and are adopted by reference; in other jurisdictions, ODS are adopted into the zoning code.

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<sup>1</sup> Government Code Section 65913.4

<sup>2</sup> Government Code 65913.4(a)(5)

<sup>3</sup> Housing Crisis Act (“SB 330”) - Government Code Section 66300(a)(7)

#### 4. What State laws require objective design standards?

Many different pieces of recent State legislation require projects to be reviewed against ODS and are intended to address the housing shortage and make the approval of housing development more predictable and easier to interpret. Together these laws define ODS and establish criteria for certain projects eligible for an approval process based on ODS, including the following notable sections of the California Government Code:

- **Housing Accountability Act:** Government Code Section 65589.5
- **Housing Crisis Act of 2019 (“SB 330”):** Government Code Sections 66300 - 66301
- **Streamlined Ministerial Approvals (“SB 35”):** Government Code Section 65913.4
- **Residential in Commercial Zones:**
  - Affordable Housing and High Road Jobs Act of 2022 (“AB 2011”): Government Code Section 65912.100 – 65912.140
  - Middle Class Housing Act of 2022 (“SB 6”): Government Code Section 65852.24
- **Housing Element Rezone Sites:** Government Code Sections 65583(g)(1), 65583.2 (h) and (i)
- **By-right Approval on Previously Used Housing Element Sites (“AB 1397”):** Government Code 65583.2(c)
- **Accessory Dwelling Unit (ADU) Law:** Government Code Section 66310 et seq.
- **Ministerial Duplex and Urban Lot Splits (“SB 9”):** Government Code Section 65852.21(b) and 66411.7(c)
- **Density Bonus Law:** Government Code Sections 65915 – 65918
- **Emergency Shelters:** Government Code Section 65583(a)(4)
- **Low Barrier Navigation Centers:** Government Code Sections 65660 - 65668

#### 5. After objective design standards are adopted, can projects be denied if some standards are not met? Or, is there a threshold that must be met based on a specific percentage of standards to establish consistency, and be approved?

A jurisdiction can deny a project if it is not consistent with the adopted ODS. If the jurisdiction finds that the proposed project is not consistent with ODS, a resubmittal can be required or the jurisdiction could work with the applicant to bring the project into compliance. Whether a full resubmittal is required or only a resubmittal of changes to come into compliance tends to be a processing preference for the jurisdiction and can be done both ways.

Regarding establishing consistency, it would be challenging to apply a percentage consistently. It would be better to require that all projects comply with all applicable ODS. An argument could be made that if a standard is waived (outside of the Density Bonus Law context), it is not actually objective, since subjectivity is being used on when it applies or doesn't.

## **6. Can subjective design guidelines that were adopted prior to January 1, 2020 be used to review residential development applications?**

Yes, sometimes. Local agencies may be able to use subjective design guidelines to condition approval of residential projects if the design guidelines were adopted before January 1, 2020. Per the Housing Accountability Act, the subjective guidelines cannot be used to deny, reduce the density of, or make infeasible the housing development, but they can be used to otherwise shape the design of the development through conditions of approval. However, if the local agency places a condition of approval on a project based on a subjective guideline and the developer says it is infeasible, the burden of proof is on the local agency to prove otherwise.

Subjective guidelines cannot be used to review certain categories of residential developments, including residential developments submitted using the SB 35 ministerial approval process or certain categories of residential development where state law specifically limits the review of those land uses to ODS (e.g., ADUs, SB 9 duplexes or lot splits, AB 2011 residential developments in commercial zones).

## **7. How can you build flexibility into numeric standards? For example, would it be possible to allow up to a 10% deviation for numeric standards such as setbacks or setbacks?**

You could specify which ODS the 10% deviation applies to, and which it does not apply to. If a request is made as a waiver or incentive through density bonus, the local agency must allow it in most cases. Findings must be made to deny a density bonus concession or waiver.

## **8. Do objective design standards apply to attached homes such as duplexes, triplex/quads, and townhomes?**

Yes, the rules requiring review and approval of a housing development project subject to ODS apply to any residential project with more than one unit, including attached homes and detached homes. The units can occupy more than one parcel and still meet the definition of "housing development project" so long as the units are included in the same development application.

## 9. For jurisdictions that have a Design Review Process and a Design Review Board (DRB), how can ODS be used?

The project would be reviewed for consistency with objective design standards. Note that the requirement to only apply ODS is for housing development projects, and subjective standards could still be applied to commercial/industrial projects.

## 10. Where can I find more information?

Please refer to the following resources for more information:

### **SANDAG**

- Objective Design Standards Workshop (October 2023)
  - [Presentation slides](#)
  - [Video](#)

### **HCD**

- [Approaches and Considerations for Objective Design Standards \(January 2021\)](#)
- [Housing Accountability Act Technical Assistance Advisory \(September 2020\)](#)

### **ABAG**

- [Objective Design Standards Handbook for Residential and Mixed-Use Projects \(April 2024\)](#)
- ["How Objective is Objective?" Forum \(February 2018\)](#)