

# Notice of Exemption

---

To:  Office of Planning and Research  
Submit Electronically

From: City of Monte Sereno  
18041 Saratoga-Los Gatos Rd.  
Monte Sereno, CA 95030

County Clerk  
County of Santa Clara County  
70 W Hedding St, East Wing, 1st Floor  
San Jose, CA 95110

**Project Title:** City of Monte Sereno 6<sup>th</sup> Cycle 2023-2031 Housing Element

**Project Applicant:** City of Monte Sereno

**Project Location – Specific:**  
Citywide

**Project Location – City:** Monte Sereno

**Project Location – County:** Santa Clara

**Description of Nature, Purpose and Beneficiaries of the Project:**  
See attachment.

**Name of Public Agency Approving Project:** City of Monte Sereno

**Name of Person or Agency Carrying Out Project:** City of Monte Sereno

**Exempt Status:** *(check one)*

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Sections 15332 (Class 32 In-Fill Development Projects), 15303 (New Construction or Conversion of Small Structures), and 15061 (Common Sense Exemption)
- Statutory Exemptions. State code number: \_\_\_\_\_

**Reasons why project is exempt:**  
See attachment.

## Lead Agency

**Contact Person:** Diana Perkins, City Planner

**Area Code/Telephone/Extension:** 408-498-5283

## If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: 1/31/2023 Title: City Manager

Signed by Lead Agency

Date received for filing at OPR: \_\_\_\_\_

Signed by Applicant

## **Description of Nature, Purpose and Beneficiaries of Project:**

The proposed project is the draft *Monte Sereno 6<sup>th</sup> Cycle 2023-2031 Housing Element Update* (also referred to as “project” or “proposed project”).

Pursuant to state law, local governments are required to review and revise their housing element not less than once every eight years. The City of Monte Sereno’s (city’s) 6th cycle housing element for the 2023-2031 planning period addresses changes to state housing laws, including the identification of housing sites that provide the development capacity to accommodate housing based on the city’s Regional Housing Needs Assessment (RHNA) allocation at all income levels. For the eight-year planning cycle, the city’s 6th cycle RHNA allocation is 193 housing units. The housing element establishes the city’s official housing policies and programs to accommodate the city’s RHNA goals and identifies available candidate housing sites to meet those goals.

The housing element establishes the city’s official housing policies and programs to accommodate the city’s RHNA goals and identifies available candidate housing sites to meet those goals. The city created an Accessory Dwelling Unit (ADU) incentive program to encourage the development of ADUs to meet the city’s RHNA in the 6th cycle. The program includes a 50% fee reduction for permitting and plan review fees for the construction of a new ADU or the conversion of an existing structure to an ADU for 225 ADUs. The housing element update would not result in any rezonings or direct housing construction but rather identifies sites where development of ADUs could occur under the city’s current regulatory framework and state housing laws.

The beneficiaries of the project are the property owners and residents of the City of Monte Sereno.

## **CEQA Guidelines Section 15332**

Pursuant to State CEQA Guidelines §15332, a project is exempt from CEQA if:

1. (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
2. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
3. (c) The project site has no value, as habitat for endangered, rare or threatened species.

4. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
5. (e) The site can be adequately served by all required utilities and public services.

### **CEQA Guidelines Section 15303**

Pursuant to State CEQA Guidelines §15303, a project is exempt from CEQA if it consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

### **CEQA Guidelines Section 15061**

Pursuant to State CEQA Guidelines §15061, a project is exempt from CEQA if:

6. The project is exempt by statute (see State CEQA Guidelines Article 18, commencing with §15260).
7. The project is exempt pursuant to a categorical exemption see State CEQA Guidelines Article 19, commencing with §15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in State CEQA Guidelines §15300.2.
8. The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
9. The project will be rejected or disapproved by a public agency; or,
10. The project is exempt pursuant to the provisions of Article 12.5 - Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects.

### **Reasons Why Project is Exempt**

The housing element update is exempt under State CEQA Guidelines §15061(b)(3), because the project involves policies, programs, and actions to meet the city's RHNA allocation and to comply with state mandates and does not grant any development entitlements or authorize development beyond what is allowed under the city's current general plan, zoning code, and state law. The housing element update does not require any rezonings and identifies candidate sites for ADU development consistent with what

is permitted under Monte Sereno's current regulatory framework and State housing laws.

ADUs subject to State ADU Law must be considered, approved, and permitted *ministerially*, without *discretionary* action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks, or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways, such as privacy, compatibility with neighboring properties, or promoting harmony and balance in the community; subjective standards must not be imposed on ADU development. Further, ADUs must not be subject to hearing requirements or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code § 65852.2, subs. (a)(3) and (a)(4).). Development of ADUs is not a discretionary action and therefore, is not subject to CEQA. Given its nature and scope, it can be seen with certainty that the proposed project would not result in significant environmental impacts.

Additionally, construction of housing as described in the Housing Element is going to occur on existing legal parcels, in compliance with existing zoning, on sites that are less than five acres within city limits and served by existing utilities, and due to the existing surrounding development, sites are not expected to have any value as habitat or result in any significant effects, making all individual housing projects qualify for the infill exception in Guidelines Section 15332. Additionally, all individual housing projects are anticipated to be covered by Guidelines Section 15303, covering installation of small residential structures in residential zones.