

**CHANGES TO THE PROCESSING OF HOUSING APPLICATIONS**

Bill	Required or Voluntary	Subject	Highlights	Process and Penalties	Short-Term Tasks (<12 months)	Medium-Long Term Tasks (>12 months)
SB 166	R	No Net Loss: Applicable to developments on sites listed in the Housing Element inventory ("inventory")	<ul style="list-style-type: none"> <li>▪ <u>Current "no net loss" requirement:</u> Applies when a city approves a project on a site in the inventory with fewer units than shown in the housing element. The city must then demonstrate that other sites in the inventory meet RHNA at all income levels or identify new sites so there is no net loss in capacity.</li> <li>▪ <u>Changes to "no net loss" requirement:</u> If projects are approved on inventory sites with fewer units or a different income category, a city must make a finding that other sites in the inventory are adequate to meet RHNA for lower and moderate income households and reduction is consistent with the General Plan, or identify and make available within 180 days, additional sites for lower and moderate income housing. No additional CEQA is needed to add sites to the inventory.</li> </ul> <p>Cities cannot disapprove a housing development (like a market rate development) because additional sites would be needed for specific income categories. This does not apply to nonresidential developments.</p>	<ul style="list-style-type: none"> <li>▪ City to review all approved applications on sites in the inventory, list them by unit count and affordability and review inventory sites not yet developed to determine if there is a shortage of sites by unit count and income category.</li> <li>▪ All new development applications on sites in the inventory must be reviewed for compliance with the no net loss provision.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Prepare a database of all applications approved on inventory sites since last adoption by unit count and affordability; determine if there is a current shortage of sites in any income category.</li> <li>▪ If there is a shortage, find either (a) existing sites not currently in the inventory that could comply; or (b) new sites that could be rezoned to comply.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increase the level of analysis in the next update to the housing element to determine whether sites can accommodate the unit count and the affordable units.</li> </ul>
<div style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> <li>➤ Requires a city to identify additional low-income housing sites in the housing element when market-rate housing is developed on a site currently identified for low-income housing.</li> <li>➤ HCD to produce Technical Assistance Memo in spring of 2018.</li> </ul> </div>						
SB 35	R (voluntary for developer)	Streamlined approval process for projects meeting specific criteria	<ul style="list-style-type: none"> <li>▪ Streamlined approval process (90 days from application submittal) for qualifying housing projects in localities that have not issued enough building permits to satisfy their housing targets (RHNA) by income category or have not submitted annual reports to HCD for two years.</li> <li>▪ "Housing project" defined as multifamily housing development that contains two or more residential units.</li> <li>▪ Qualifying projects are eligible for approvals through a ministerial process, which excludes them from CEQA.</li> <li>▪ Criteria to qualify for SB 35 streamlining:               <ul style="list-style-type: none"> <li>▪ In a city within an urbanized area or urban cluster;</li> <li>▪ Has at least 75% of the perimeter adjoining parcels developed with urban uses;</li> <li>▪ Zoned for residential or mixed use or has a General Plan designation allowing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ HCD has determined that Lafayette has made insufficient progress towards its Lower Income RHNA (Very Low and Low Income), and thus, is subject to SB 35 streamlining for proposed developments with at least 50% affordability for low income (very low income and low income) households.</li> <li>▪ Within 60 days after an application for a development of 150 units or less is <u>submitted</u>, City must provide written notice of any objective development standards that the project does not meet and an explanation as to why it does not meet those standards.</li> <li>▪ City must complete through a ministerial process any "design review or public oversight" within 90 days of application <u>submittal</u> for projects of 150 units or less and 180 days for projects with more than 150 units.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop a checklist to determine project eligibility for streamlining.</li> <li>▪ Develop a checklist of all existing objective code and General Plan requirements.</li> <li>▪ Require applicants to demonstrate compliance by completing said checklist when filing an application.</li> <li>▪ Update submittal requirements to require more detailed information from applicants in order to demonstrate compliance.</li> <li>▪ Update current design review guidelines and findings to add "objective" standards and criteria.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop written guidelines to apply to ongoing projects.</li> <li>▪ Initiate code changes where needed.</li> <li>▪ Revise handouts and application forms.</li> <li>▪ Revise development review processes to bottom load approvals; i.e., fewer projects would go to the DRC and PC.</li> </ul>

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			<p>residential or mixed use with at least 2/3 of square footage devoted to residential uses.</p> <ul style="list-style-type: none"> <li>▪ Meets all “objective” zoning and design review standards. Maximum density is that permitted in the general plan.</li> <li>▪ To be eligible for streamlining, the housing development must:                             <ul style="list-style-type: none"> <li>▪ Be on a qualifying site (as described above);</li> <li>▪ Abide by certain inclusionary requirements (10 percent must be affordable to households earning 80 percent or less of area median income or 50 percent must be affordable to households earning 80 percent or less of area median income, depending upon the city’s past approval of above-moderate income and lower-income housing, respectively); and</li> <li>▪ Pay prevailing wages for projects of 10 or more units; and use a “skilled and trained workforce” if 75 and &gt; units are proposed (2018-19), 50 and &gt; units proposed (2010-2021) or 25 and &gt; units proposed (2022-2025).</li> </ul> </li> <li>▪ Parking requirements for eligible projects: No more than 1 space per housing unit; however, no parking is required if project is located within ½ mile of public transit, within a historic district, within 1 block of a car share vehicle, or in an area where on-street parking permits are required but not offered to occupants of the project.</li> <li>▪ Sites are excluded if they fall in:                             <ul style="list-style-type: none"> <li>▪ Coastal zone;</li> <li>▪ Prime farmland or farmland of statewide importance;</li> <li>▪ Wetlands;</li> <li>▪ Very high or high fire hazard severity zone;</li> <li>▪ Delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards;</li> <li>▪ Hazardous waste site, unless the state Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;</li> <li>▪ Floodplain or floodway, unless the</li> </ul> </li> </ul>			

- Opt-in program for developers.
- Creates a streamlined/fast track approval process for developments in localities that have not yet met their housing targets.
- **City must complete, through a ministerial process, any “design review or public oversight” within 90 days of submission of a qualifying application.**
- A development can request a density bonus that would exceed maximum allowable density in the zone and still qualify for streamlining provisions under SB 35.
- HCD to produce guidelines in summer of 2018.

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			<p>development has been issued a floodplain development permit or received a no-rise certification; and</p> <ul style="list-style-type: none"> <li>▪ Lands under conservation easement.</li> </ul> <p>In addition, development sites are excluded if they would demolish:</p> <ul style="list-style-type: none"> <li>▪ A historic structure;</li> <li>▪ Any housing occupied by tenants in the past 10 years; or</li> <li>▪ Housing that is subject to rent or price control.</li> </ul>			
AB 678, SB 167, AB 1515	R	Housing Accountability Act (HAA): applicable to all housing development projects (anti-NIMBY law)	<ul style="list-style-type: none"> <li>▪ <u>Current HAA</u> <ul style="list-style-type: none"> <li>▪ Housing development projects need only comply with “objective” general plan, zoning and subdivision standards.</li> <li>▪ “Housing development project” is defined as a use consisting of any of the following:                             <ul style="list-style-type: none"> <li>▪ Residential units only.</li> <li>▪ Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.</li> <li>▪ Transitional housing or supportive housing.</li> </ul> </li> <li>▪ Project complying with objective standards may only be denied or its density reduced if city can find it would have a “specific adverse impact<sup>1</sup>” on public health and safety and there is no feasible mitigation.</li> <li>▪ Affordable Projects<sup>2</sup>: Additional findings required to deny affordable project, reduce density or add a condition that makes project infeasible – EVEN IF the project doesn’t comply with all “objective” standards.</li> </ul> </li> <li>▪ <u>Changes to HAA</u> <ul style="list-style-type: none"> <li>▪ Expands housing developments to include certain mixed-use projects.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Within 30 days after an application for a development of 150 units or less has been deemed complete, City must identify any inconsistencies with any “applicable plan, program, policy, ordinance” etc., or else the project is deemed to be consistent<sup>3</sup>.</li> </ul> <p>Penalty: Prevailing party in a lawsuit under the HAA is entitled to attorneys’ fees; failure of a city to comply with court order to approve project under HAA will be fined \$1,000 per unit; increasing to five times this amount if court finds city acted in bad faith.</p>	<ul style="list-style-type: none"> <li>▪ Update submittal requirements to require more detailed information from applicants in order to demonstrate compliance.</li> <li>▪ Develop a checklist of all existing objective code requirements.</li> <li>▪ Require applicants to demonstrate compliance by completing said checklist when filing an application.</li> <li>▪ Determine whether Permit Streamlining Act deadlines apply.</li> <li>▪ Update current design review guidelines and findings to add “objective” standards and criteria.</li> <li>▪ Create additional findings for HAA compliance and apply to qualifying projects.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop written guidelines to apply to ongoing projects.</li> <li>▪ Initiate code changes where needed.</li> <li>▪ Revise handouts and application forms.</li> <li>▪ Revise development review processes to bottom load approvals; i.e., fewer projects would go to the DRC and PC.</li> </ul>

➤ States that a housing development conforms with local land use requirements if there is substantial evidence that would allow a reasonable person to reach that conclusion.

➤ Findings to deny housing projects must be supported by a preponderance of evidence, rather than substantial evidence.

➤ Imposes substantial fines on a city which fails to comply with court order to approve project under HAA.

<sup>1</sup> Defined as a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards” and there is no feasible method to mitigate the impact.

<sup>2</sup> Projects where at least 20% of units are affordable to low income households (up to 80% of area median income or AMI) or 100% are affordable to moderate income households (120% AMI) or middle income (150% AMI)

<sup>3</sup> Longer deadlines for projects with more than 150 units.

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			<ul style="list-style-type: none"> <li>▪ Involves more stringent requirements by increasing required documentation and the standard of proof for a local agency to legally defend its denial of all housing development projects.</li> <li>▪ Definition of “objective” is not provided; however, SB 35 defines it as one that involves “no personal or subjective judgement by a public official and uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant....and the public official prior to submittal.”</li> <li>▪ Less deference to cities in findings of inconsistency. A housing project “shall” be deemed consistent with applicable standards if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent. This is stricter than current practice of upholding local government’s finding of consistency or inconsistency unless no reasonable person could agree.</li> <li>▪ Findings to deny housing projects must be supported by a preponderance of evidence, rather than substantial evidence.</li> <li>▪ Authorizes the project applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization, as defined, to bring an action to enforce its provisions.</li> </ul>			