



## Planning & Building Department

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### SB 35: STREAMLINED HOUSING DEVELOPMENT Pre-Application Eligibility Checklist

Government Code section 65913.4, also known as Senate Bill 35 (SB 35), requires the City to review qualifying multifamily housing development projects using a ministerial review process. Eligible projects must comply with objective planning standards, provide specified levels of affordable housing, and meet other specific requirements, as detailed below. Projects will go through a multi-step process:

1. Use this Eligibility Checklist to determine if your project is eligible for streamlining under SB 35.
2. If eligible, submit a Preliminary Application to the City as notice of intent to apply.
3. The City will provide the submitted Preliminary Application to all Native American tribes that are traditionally and culturally affiliated with the geographic area of the development in order to initiate a scoping consultation with all interested tribes.
4. If the scoping consultation results in the City being able to accept an SB 35 application, the applicant will then submit a complete application for multifamily development, which will be processed ministerially using the timeframes required.

The following checklist is intended as a guide to help applicants and the City staff determine if a project is eligible for streamlined processing under SB 35 (Step 1). To be eligible, a project must meet all of the following criteria:

#### ELIGIBILITY CHECKLIST

**1. PRELIMINARY APPLICATION.**

The applicant must submit:

- a. A [Preliminary Application](#), completed and signed. *(Please note that this link leads to an HCD form labeled "Housing Crisis Act of 2019 – SB 330: Preliminary Application Form," but is in fact the correct form to use for an SB 35 Pre-application.)*
- b. A [Standard Application Form](#), completed and signed.

**2. NUMER AND TYPE OF UNITS**

The project must be a multifamily housing development that contains at least two (2) residential units and must comply with the minimum and maximum residential density range permitted for the site, plus any applicable density bonus.

**3. PROJECT SITE**

The project must be located on a legal parcel or parcels within the incorporated City limits. At least 75% of the perimeter of the site must adjoin parcels that are developed with urban uses. For purposes of SB 35, "urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Parcels that are only separated by a street or highway shall be considered adjoined.

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**4. ZONED OR PLANNED RESIDENTIAL USES**

At least two-thirds (2/3) of the project's square footage must be designated for residential use. The project must also be located on a site that is one of the following:

- a. Zoned for residential or residential mixed use development
- b. Designated in the General Plan as residential or residential mixed use
- c. Within a zone where office, retail or parking is a principally permitted use and meets the requirements of the Middle Class Housing Act of 2022 (SB 6), per Govt. Code section 65852.24.

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**5. AFFORDABILITY**

At least 50% of the project's total units must be dedicated as affordable to households making below 80% of the area median income.

If the project will contain subsidized units, the applicant has recorded or is required by law to record, a land use restriction for the following minimum duration, as applicable:

- 55 years for rental units
- 45 years for homeownership units

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**6. CONSISTENT WITH OBJECTIVE STANDARDS**

Objective Standards are those that require no personal or subjective judgment and must be verifiable by reference to an external and uniform source available prior to submittal. Sources of objective standards include, without limitation:

- [General Plan](#)
- [Downtown Specific Plan](#)
- [Lafayette Municipal Code](#)
- [All applicable Master Plans](#)
- [Objective Standards for New Multi-family Mixed Use Development in the Downtown](#)

If the project is consistent with the minimum and maximum density range allowed within the applicable General Plan land use designation, not including any applicable density bonus, then it is deemed consistent with the housing density standards.

Any density bonus or any concessions, incentives, or waivers of development standards or reduction of parking standards requested under Density Bonus Law in Govt Code section 65915 are deemed consistent with objective standards.

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**7. SITE LOCATION**

Confirm that the project is located on a property that is fully **outside** each of the following areas:

- A Coastal Zone, as defined in [Division 20 of the Public Resources Code](#)
- Prime farmland or farmland of statewide importance pursuant to USDA or zoned/designated

for agricultural protection/preservation ([CA Important Farmland Finder Map](#))

- Wetlands, as defined in the US Fish & Wildlife Service Manual, Part 660 FW 2 (June 21, 1993) ([National Wetlands Mapper](#))
- Very High Fire Hazard Severity Zone (VHFHSZ) adopted pursuant to CA Public Resource Code (PRC) §4202 ([Community View Map](#)); Exception: Sites excluded pursuant to Gov't Code §51179 or those that have adopted fire hazard or state fire mitigation measures ([Very High Fire Hazard Severity Zone](#))
- Hazardous waste site ([DTSC EnviroStor Map](#))
- A delineated earthquake fault zone (([CGS Earthquake Zones Map](#)
- A special flood hazard area ([FEMA Flood Map](#))
- A regulatory floodway ([FEMA Flood Map](#))
- Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act ([NCCP Conservation Plan List and Map](#))
- A conservation easement, scenic deed, or open-space easements.
- Parcel is not included on the State Historic Resources Inventory. (Provide [State Historical Resources Commission](#) property records research.)
- Lands with habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (CA Fish and Game Code (FGC), Div. 3, Ch. 1.5, commencing with §2050), or the Native Plant Protection Act (CA FGC, Div. 2, Ch. 10, commencing with §1900). ([Flood Risk and Endangered Species Habitat \(FRESH\) Map](#))
- A site that would require demolition of housing that:
  - Is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  - Is subject to any form of rent or price control through a public entity's valid exercise of its police power.
  - Has been occupied by a tenant in the last ten years
- A site that previously contained housing occupied by tenants that was demolished within the past ten years
- A site that would require demolition of an historic structure that is on a local, state, or federal register.

- A site that contains housing units that are occupied by tenants, and units at the property are or were subsequently offered for sale to the general public by the subdivider or subsequent property owner.
- A parcel of land or site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.

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**8. SUBDIVISIONS**

The project did not or does not involve an application to create separately transferable parcels under the Subdivision Map Act. However, a subdivision is permitted if either of the following apply:

- The project is financed with low-income housing tax credits (LIHTC) and is subject to the prevailing wage requirements identified below on this checklist.
- The project is subject to the prevailing wage and skilled and trained workforce requirements.

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**9. PREVAILING WAGE**

The project proponent must certify that at least one of the following is true:

- The entirety of the project is a public work as defined in Government Code section 65913.4(8)(A)(i).
- The project is not in its entirety a public work and all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as further described in Government Code section 65913.4(8)(A)(ii).
- The project includes 10 or fewer units AND is not a public work AND does not require subdivision.

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**10. SKILLED AND TRAINED WORKFORCE**

If the project consists of 50 or more units that are not 100 percent subsidized affordable housing, the project proponent must certify that it will use a skilled and trained workforce, as defined in Government Code section 65913.4(8)(B)(ii).