



# City of Santa Clara

The Center of What's Possible

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## SB 35 Streamlined Ministerial Project Eligibility Checklist and Processing Procedures

### SB 35 Eligibility Checklist

All the following boxes (requirements) must be checked in order for a multifamily housing project to qualify for a streamlined ministerial review process under [California Government Code Section 65913.4](#) (SB 35 (2017))

- 1. The project is a multifamily housing development (two or more units)
- 2. The site is zoned for or has a general plan designation that allows for residential use or residential mixed-use development and the project complies with the density range permitted for the site, plus any applicable density bonus.
- 3. At least two-thirds of the square footage of the development is designated for residential use.
- 4. The project dedicates a minimum of 50-percent of the total number of units, before calculating any density bonus, as affordable to households making at or below 80-percent of area median income (AMI).
- 5. At least 75-percent of the perimeter of the site adjoins parcels currently or formerly developed with "urban uses". Parcels only separated by a street or highway shall be considered to be adjoined. "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.
- 6. The project does not include a subdivision of land, subject to the Subdivision Map Act, unless the development is consistent with all the subdivision standards in the local subdivision ordinance, and either of the following apply:
  - a) the development has received or will receive financing or funding by means of a low-income housing tax credit (LIHTC) and is subject to the requirement that prevailing wages be paid pursuant to 65913.4(a)(8)(A).
  - b) the development is subject to the requirement that prevailing wages be paid, and skilled and trained workforce used, pursuant to 65913.4(a)(8).
- 7. The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in 65915, is consistent with the City's objective zoning, subdivision, and design review standards.

8. Site meets requirements of [65913.4](#) (a)(6)(E), (G), and (H)<sup>1</sup>:
- Property cannot be (unless meeting specified requirements):
    - A hazardous waste site (E)
    - Within a 100-year floodplain(G)
    - Within a regulatory floodway (H)
9. The development is not located on a site where any of the following apply:
- The development would require demolition of the following types of housing:
    - Housing 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
    - Housing that is subject to any form of rent or price control through a public entity’s valid exercise of police power
    - Housing that has been occupied by tenants within the past 10 years.
  - The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an SB 35 application
  - The development would require the demolition of a historic structure that was placed on a national, state, or local historic register
  - The property 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 owner of the property.
10. The development is not upon an existing parcel of land or site that is governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.
11. The project proponent certified that the entire development is a “public work” for purposes of prevailing wage law or that the construction workers will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
12. The project proponent certified that a “skilled and trained workforce” will be used to complete the development, if the requirement is applicable. Not applicable to projects of 10 units or less and that are not a “public work” for purposes of prevailing wage law.

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<sup>1</sup> Senate Bill 35 does not apply to certain types of properties listed in Government Code Section 65913.4(a)(6)(B)-(K). In addition to the properties listed in the checklist above, this includes (B) prime farmland; (C) wetlands; (D) high fire hazard zones; (F) earthquake fault zones; (I) lands in a natural resource protection plan; (J) habitat for protected species; and (K) lands under a conservation easement. These types of properties are not currently present in Santa Clara.

## SB 35 Processing Procedures

Before submitting an SB 35 application for a development subject to the streamlined, ministerial approval process described in 65913.4(c), the development proponent shall submit to the City a Preliminary Application that includes all the information described in Government Code [65941.1](#)

### A. SB 35 Preliminary Application / Notice of Intent

1. Applicant – Complete SB 35 Eligibility Checklist
2. Applicant – Submit Preliminary Application using the [Permit Online Portal](#) with the following information:
  - a. Completed SB 35 Eligibility Checklist (this form)
  - b. Pre-Application Project Clearance Committee Review by submitting plans/information that include the following:
    - The specific location, including parcel numbers, a legal description, and site address, if applicable.
    - The existing uses on the project site and identification of major physical alteration to the property on which the project is to be located.
    - A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
    - The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
    - The proposed number of parking spaces.
    - Any proposed point sources of air or water pollutants.
    - Any species of special concern known to occur on the property.
    - Whether a portion of the property is located within any of the following:
      - A very high fire hazard severity zone
      - Wetlands
      - A hazardous waste site
      - A special flood hazard area subject to inundation by the one percent annual chance flood (100-year flood)
      - A delineated earthquake fault zone
      - A stream or other resource that may be subject to a streambed alteration agreement
    - Any historic or cultural resources known to exist on the property.
    - The number of proposed below market rate units and their affordability levels.
    - The number of bonus units and any incentives, concessions, waivers, or parking reductions requested.
    - Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
    - The applicant's contact information, and if the applicant does not own the property, consent from the property owner to submit the application.
    - The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.

- A site map showing a stream or other resource that may be subject to a streambed alteration agreement and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.
- The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

c. **Filing Fee** (Pre-Application Project Clearance Committee Review)

3. City – Planning Division initiates Tribal Consultation Process immediately after acceptance of Preliminary Application and payment of fees, by sending request for list of tribes to the Native American Heritage Commission (NAHC).
4. City – Planning Division reviews SB 35 Eligibility Checklist
5. City – Project Clearance Committee (PCC) reviews SB 35 Preliminary Application
6. City – Planning Division provides applicant with comments on SB 35 eligibility and comments from the PCC.
7. City – Planning Division, within 30 days of submittal of SB 35 Preliminary Application, mail/send notice to list of tribes offering consultation. Tribes have 30 days after receiving notice to request consultation. Requests for consultation should occur within an additional 30 days.

Prior to accepting an SB 35 application for a Streamlined Ministerial Approval process, the City must complete the tribal consultation process outlined in Government Code Section 65913.4(b).

**B. SB 35 Application**

1. Applicant – File an application using the [Permit Online Portal](#), including the appropriate [application checklists](#), required plans/information, and [filing fees](#) (Architectural Review – SB 35 Review) .
2. City – Planning Division provides applicant with determination of SB 35 eligibility (within 60 calendar days (up to 150 units) or 90 calendar days (over 150 units).
3. City – Planning Division provides applicant with PCC comments/corrections.
4. Applicant – Submit revised plans/information, as needed, to address comments/corrections.
5. City – Conduct Development Review Hearing (DRH) then issue approval (or denial) after determining compliance (or non-compliance) with each of the City’s Objective Standards (within 90 calendar days (up to 150 units) or 180 calendar days (over 150 units).

**C. Building Permit, Engineering, Other City Approvals**

1. Applicant – Submit for Building Permit, Engineering, and/or other City approvals.