

Senate Bill No. 35 Eligibility Checklist

SB 35 creates a streamlined and ministerial approval process for certain housing projects. If the answers to all of the statements below are “yes,” then your project is eligible for the approval process under [Government Code section 65913.4](#) (see process notes on page 2). If any of these responses are “no,” then the project is not eligible. This checklist provides an overview of SB 35’s requirements. Please contact your legal counsel for additional information and assistance.

ELIGIBILITY REQUIREMENTS		Yes	No
1.	The project is a multifamily housing development (2 or more units) (subd. (a)(1)).	<input type="checkbox"/>	<input type="checkbox"/>
2.	The applicant has dedicated a minimum of 50% of units as affordable at the moderate income level (80% AMI) (subd. (a)(4)(B)).	<input type="checkbox"/>	<input type="checkbox"/>
3.	The site is in an “urbanized area” or “urban cluster” as designated by the Census (subd. (a)(2)(A)).	<input type="checkbox"/>	<input type="checkbox"/>
4.	At least 75% of the perimeter of the site adjoins parcels currently or formerly developed with “urban uses” (subds. (a)(2)(B), (h)(8)).	<input type="checkbox"/>	<input type="checkbox"/>
5.	The site has either zoning or a general plan designation that allows for residential use or residential mixed-use development (subd. (a)(2)(C)). For property designed for mixed-use, the designation must require at least “two-thirds of the square footage of the development” to be residential.	<input type="checkbox"/>	<input type="checkbox"/>
6.	The project does not include a subdivision of land (subd. (a)(9)).	<input type="checkbox"/>	<input type="checkbox"/>
7.	The project meets the design requirements, “objective zoning standards,” and “objective design review standards” (subd. (a)(5)). <ul style="list-style-type: none"> ▪ Objective standards are those that are “involve no personal or subjective judgement 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 prior to submittal.” ▪ A project is deemed to meet housing density standards if the project density, excluding any density bonuses, is within the maximum density allowed within the general plan land use designation. ▪ No parking is required if the site is within ½ mile of transit, within a historic district, within a block of a care share. One parking space per unit is required for all other sites (subd. (d)). 	<input type="checkbox"/>	<input type="checkbox"/>
8.	The project is outside each of the following areas (subd. (a)(6)-(a)(7)). <ul style="list-style-type: none"> ▪ Coastal zone ▪ Prime farmland or farmland of statewide importance ▪ Wetlands as defined under federal law ▪ Earthquake fault zones ▪ High or very high fire hazard severity zones ▪ Hazardous waste site ▪ FEMA designated flood plain or floodway ▪ Protected species habitat ▪ Lands under a conservation easement ▪ Lands designated for conservation in a habitat conservation plan ▪ A site that would require demolition of: <ul style="list-style-type: none"> (a) housing subject to recorded rent restrictions, (b) housing subject to rent control, (c) housing occupied by tenants within past 10 years, or (d) historic structure(s) placed on a local, state, or federal register ▪ A site that previously contained housing occupied by tenants within past 10 years ▪ A parcel of land governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act. 	<input type="checkbox"/>	<input type="checkbox"/>
9.	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 prevailing wage (subd. (a)(8)(A)).	<input type="checkbox"/>	<input type="checkbox"/>

10. The project proponent certified that “a skilled and trained workforce” will be used to complete the development, if the requirement is applicable (subd. (a)(8)(B)).	<input type="checkbox"/>	<input type="checkbox"/>
11. Has the applicant demonstrate compliance with Assembly Bill AB 168 (Native American consultation)	<input type="checkbox"/>	<input type="checkbox"/>

Before applying for approval of a project under SB 35, AB 168 requires the City to complete consultation with interested Native American tribes. AB 168 is available for review here: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB168.

To initiate the tribal consultation process, the applicant must submit a “Notice of Intention,” indicating its intent to file an SB 35 application. The Notice of Intention should take the same form as an SB 330 preliminary application.

The City’s preliminary application form is available here: https://www.losaltosca.gov/sites/default/files/fileattachments/community_development/page/41491/preliminary_project_review_submittal_req.pdf

Please submit the preliminary application with a cover sheet indicating that the application is intended to serve as a Notice of Intention under SB 35. Please be advised that depending upon the results of tribal consultation, the project may be ineligible for treatment under SB 35

Process Notes:

- Please be advised that the project must provide the greater of the amount of affordable housing required under SB 35 or the amount required under the City’s Affordable Housing Ordinance. Because the Government Code section 65913.4 process is ministerial, eligible projects are exempt from CEQA.
- Small projects (≤ 150 units)
 - o 60 days from submittal – the City is required to provide a list of all inconsistencies with “objective planning standards” and design review standards in effect, otherwise the project is deemed to satisfy the standards (subd. (b)).
 - o 90 days from submittal – the City is required to complete a “design review or public oversight”. The review or oversight “shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards” (subd. (a)(c)).
- Large projects (>150 units)
 - o 90 days from submittal – the City is required to provide a list of all inconsistencies with “objective planning standards” and design review standards in effect, otherwise the project is deemed to satisfy the standards (subd. (b)).
 - o 180 days from submittal - the City is required to complete a “design review or public oversight”. The review or oversight “shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards” (subd. (a)(c)).