

Senate Bill 35: Streamlined Affordable Housing

Frequently Asked Questions

What is California State Senate Bill 35?

Senate Bill (SB) 35 went into effect on January 1, 2018 and changed the local review process for certain development projects in the state. SB 35 applies to California Cities and Counties where production of new housing has not met the state-mandated Regional Housing Need Allocation (RHNA) targets. These cities and counties must use a streamlined, ministerial review process for qualifying multifamily residential projects. This process does not allow public hearings or discretionary review (i.e. Design Review).

Is Belvedere subject to SB 35?

No, Belvedere is currently not subject to SB 35 (through 2023) based on the number of building permits that have been issued for new housing units (including affordable housing) during the current Housing Element cycle. It is very likely that Belvedere will be subject to SB 35 at some point during the next Housing Element cycle (2023 – 2031), as it is likely that the number of new housing units developed in Belvedere will not keep pace with RHNA in the next housing cycle.

Which projects are eligible?

Housing projects qualify for SB 35 if they satisfy a number of criteria, including:

- Provide the specified number of affordable housing units;
- Comply with objective planning standards;
- Are on sites zoned or planned to allow residential uses;
- Are not located in the coastal zone, agricultural land, wetland, flood plain, or very high fire severity zone;
- Does not demolish any housing units that have been occupied by tenants in the last 10 years; and
- Pays prevailing wages (only for projects with 10 or more units).

What is a streamlined, ministerial review process?

A jurisdiction subject to SB 35 must review applications for qualifying housing developments within a statutory time frame. The jurisdiction must determine if the project is eligible for streamlined approval within 60 days of application submittal for projects of 150 or fewer units, or within 90 days for larger projects. If the application is eligible for review under SB 35, then the jurisdiction must review the project within 90 days after application submittal for projects of 150 or fewer units, or within 180 days for larger projects.

Ministerial review is based on compliance with set, objective standards and cannot involve subjective judgment. Qualifying projects are also not subject to environmental review under the California Environmental Quality Act (CEQA).

Have there been any SB 35 applications in Marin County?

Yes, there have been two recent SB 35 applications in Marin County, a project in Novato and a second project in Marin City.

The project in Novato includes a proposal for demolition of the existing commercial building and construction of a new six-story, 75-foot tall mixed-use building consisting of 8,190 square feet of ground floor retail with 227 residential units on the five floors above. All units are proposed to be affordable.

The project in Marin City includes the construction of a new five-story, 56 foot tall building consisting of 74 residential units. Except for the managers unit, all units are proposed to be affordable.

What are objective standards?

“Objective zoning standards” and “objective design review standards” involve no personal or subjective judgment 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.

What is the relationship between SB 35 and Density Bonus Laws?

SB 35 projects can utilize benefits under the density bonus laws. State Density Bonus Law requires all cities and counties to offer a density bonus, allow concessions, incentives and waivers of development standards to housing development that include either a certain percentage of affordable housing or housing for qualified individuals. The request for concessions and waivers of development standards are chosen by the housing developer and may include things like exceeding maximum height limits, reduction of minimum parking standards, reduction of required minimum setback or upper story step backs.