



City of Encinitas Development Services Department

STREAMLINED APPROVAL PROCESS (SB 35)

December 2021

WHAT IS STREAMLINED MINISTERIAL APPROVAL PROCESS?

[California Senate Bill 35 \(SB 35\)](#), was signed by Governor Jerry Brown on September 29, 2017, and became effective January 1, 2018. Under state housing law, the State Department of Housing and Community Development (HCD) assigns each jurisdiction housing production goals for different+ income categories; this is referred to as the Regional Housing Needs Allocation (RHNA) goals.

Every year cities and counties are required to report to HCD their housing production (by income category) according to the number of building permits issued within the jurisdiction. If HCD finds that a jurisdiction's RHNA goals are not being satisfied, SB 35 requires cities and counties to streamline the review and approval process of certain affordable housing projects.

In 2021, [HCD identified](#) that Encinitas has made insufficient progress toward their Lower income RHNA (Very Low and Low income) and are therefore subject to the streamlined ministerial approval process for proposed developments with at least 50% affordability.

WHAT IS A STREAMLINED MINISTERIAL REVIEW?

SB 35 requires cities and counties to streamline reviews and approval of eligible affordable housing projects by providing a ministerial approval process and exempting such projects from environmental review under the California Environmental Quality Act (CEQA).

This process does not allow public hearings; only design review or public oversight is allowed, which must be objective and strictly focused on assessing compliance with criteria required for streamlined projects as well as objective design review of the project.

Depending upon the number of housing units proposed in the project, the city has a short timeframe to review the application to determine if it is eligible for processing under SB 35. If it is determined that the project is eligible, SB 35 specifies the timeframes within which the city must make a final decision on the application.

WHAT IS THE APPROVAL TIMELINE?

Projects that elect to take advantage of this process must specifically request SB 35 processing.

The city must determine whether the project is eligible for streamlining within 60 days of application submittal for projects with

150 or fewer units, and 90 days for projects with more than 150 units.

Thereafter, project design review and consideration of any information requested of the applicant for ministerial review must be completed with a final approval in 90 days from project application submittal for projects with 150 or fewer units and 180 days from project submittal for projects with more than 150 units.

WHAT PROJECTS ARE ELIGIBLE FOR THE STREAMLINED MINISTERIAL REVIEW?

The following development projects are eligible for the streamlined ministerial approval process under SB 35 if they meet **all** of the following criteria:

Minimum Affordable Units

At least 50% of the total units must be restricted for low- or very low-income housing for a period of no less than 55 years.

Urban Infill

The property must be in an urban area (services readily available), with 75% of the site's perimeter already developed.

Minimum Units

At least two residential units must be proposed.

Designated Residential Use

The city's current general plan and zoning designation must allow residential or residential mixed-use with at least two-thirds of the proposed development square footage designated for residential use.

Location

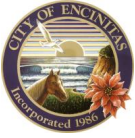
The development cannot be located on property with-in any of the following areas:

- The Coastal Zone;
- Very or very high fire hazard severity zone;
- Delineated earthquake fault zone;
- Habitat for protected species or wetlands;
- Farmland (prime/statewide significance);
- Under a conservation easement;
- Flood plain/floodway; and
- Hazardous waste site.

CAN EXISTING RESIDENTIAL UNITS BE DEMOLISHED?

No, development cannot demolish any existing housing units that meet one of the following:

- Occupied by tenants in the last 10 years;
- Subject to any form of rent or price control;



FAQ SHEET

STREAMLINED APPROVAL PROCESS (SB 35)

- Subject to a local law that restricts rental prices to levels affordable to persons and families of moderate, low or very low incomes; and
- Historic structures that are currently listed on a national, state, or local historic register at the time of application submittal.

WHAT ARE OTHER PROJECT REQUIREMENTS?

Consistent with Objective Planning and Design Standards

Development must meet all objective general plan, zoning and design review standards in effect at the time the application is submitted, except for density bonus (For more information on density bonus, please review the [Density Bonus FAQ](#)).

Note: SB 35 defines objective standards as those standards that 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.

Prevailing Wages

All construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area. Public work projects as defined in Government Code Section 65913.4(a)(8)(A), are exempt.

Skilled and Trained Workforce Provisions

A skilled and trained workforce, as defined in Government Code Section 65913.4(a)(8)(B)iii, must complete the development if the project consists of 75 or more units that are not 100% subsidized affordable housing.

Subdivisions

The project does not involve a subdivision, unless the development:

- Receives a low-income housing tax credit and is subject to the requirement that prevailing wages be paid; or
- Subject to requirements to pay prevailing wages and use a skilled/trained workforce.

Parking

The project must provide at least one parking space/unit; however, parking may not be required if the project is located within:

- One-half mile of a public transit stop;
- Architecturally or historically significant historic district;
- One block of a car-share location; or
- An on-street parking permit district where permits are required but not offered to the development occupants.

ARE PUBLIC HEARINGS REQUIRED?

SB 35 projects are ministerial, which do not require public hearings. SB 35 allows “design review or public oversight” to occur if a City so chooses. This process may be conducted by the Planning

Commission or an equivalent board or commission responsible for review and approval of development projects, or the City Council.

Design review or public oversight must be objective and strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards that were in effect before the application was submitted. This process may not in any way “inhibit, chill, or preclude the ministerial approval” allowed by SB 35.

IS AN ENVIRONMENTAL REVIEW REQUIRED?

SB 35 projects are considered ministerial and therefore not subject to CEQA. As such, the city cannot require applicants to prepare any studies that would be required under CEQA (i.e., traffic, air quality, noise).

The city can only require an applicant to abide by objective planning standards that were in effect at the time the SB 35 application was submitted. If an objective planning standard requires certain studies to be performed and there are objective standards to address the preparation and results of those studies, then the applicant would be required to prepare and implement those requirements.

DOES THE APPROVAL EXPIRE?

The expiration dates for projects approved under SB 35 are as follows:

- Projects will not expire where 50% of the units are affordable to households making below 80% of the area median income (below moderate-income levels).
- Projects that do not include housing noted in the bullet above automatically expire after three years.
- Projects shall remain valid for three years and shall remain in effect as long as vertical construction has begun and is in progress. A one-year extension to the original three-year period may be granted if progress is being made towards construction.

WHERE CAN I LEARN MORE?

Information on submittal requirements can be found on the City’s [Applications & Information](#) webpage, or by contacting Planning Services at 760-633-2710 or planning@encinitasca.gov. Please note that the State Housing Affordability Act is complex, and this FAQ sheet only summarizes major provisions. Applicants should also review the specific provisions of Government Code Sections 65400, 65582.1 and 65913.4 and [HCD Guidelines](#) before making an application.

