



# City of Walnut Creek

## SB 35 Procedures

[California Government Code Section 65913.4](#), commonly known as Senate Bill 35 of 2017 (SB 35) and most recently modified by Senate Bill 423 of 2023, allows housing developers to apply for a streamlined, ministerial approval process (without discretion or public hearings) when the proposed development meets all SB 35 eligibility requirements and City objective design and development standards. Please see the SB 35 Supplemental Application for detailed requirements.

This handout provides an overview of SB 35 requirements and is for informational purposes only. Section 65913.4 shall govern in the case of a conflict with any of the information below.

### Handout and Application Forms

- SB 35 FAQs (will need to create)
- SB 35 Eligibility Checklist
- SB 35 Submittal Requirements
- SB 330 Preliminary Application (SB 35 Notice of Intent)
- Standard Application Form
- HCD Guidelines - Provides additional background information and guidance on eligibility, approval process, timing requirements, and reporting.

## Eligibility - Objective Planning Standards

A project must satisfy all of the following in order to qualify for streamlined approval under SB 35:

- Minimum Units.** The project is a multifamily housing development with at least two residential units.
- Legal Parcel.**
- Urban Infill.** At least 75% of the site's perimeter adjoins parcels that are developed with urban uses. (Parcels separated only by a street or highway are considered adjoined.)
- Zoning/General Plan.** The project site is located in a zoning district or General Plan designation that allows residential or mixed-use residential development, or in a zone where office, retail, or parking are a principally permitted use, when the requirements of Gov. Code Section 65852.24 (SB 6 of 2022) are met.
- Mixed Use.** If the project includes non-residential uses, at least two-thirds of the square footage (including density bonus and waivers/concessions) is designated for residential use.
- Affordable Units (Projects over 10 units).**
  - **For-Rent Projects:** must provide at least 10 percent of the total units (prior to density bonus) to households making at/below 50 percent of area median income (AMI).
  - **For-Sale Projects:** must provide at least 10 percent of the total units (prior to density bonus) to households making at/below 80 percent of AMI.
  - **All Projects:** may provide, in lieu of the above requirements, at least 20 percent of the total units (prior to density bonus) to households making at/below 100 percent of AMI, provided the average income of affordable units must be at/below 80 percent of AMI. In addition, the City's inclusionary ordinance (which requires deeper affordability levels, or an in-lieu fee) still applies.

*Please note these percentages may subject to change under SB 35 with the City's progress in meeting its regional housing need allocation (RHNA) obligations.*

Project Type	Minimum Percentage of Affordable Units (before density bonus)	Minimum Household Income level (based on area median income)
For Rent	10%	50%
For Sale	10%	80%
For Sale or For Rent (option)	20%	100% (average income must be below or at 80 percent AMI; City inclusion ordinance applies)

Prior to first building permit issuance, the applicant must record a deed restriction providing that any affordable units satisfying the above requirements shall remain affordable for 55 years if rental, or 45 years if for sale/owned.

- Objective Standards.** The project must be consistent with all objective zoning, subdivision, and design review standards in effect at the time of application submittal (or at the time a notice of intent is submitted pursuant to Government Code Section 65913.4(b), whichever occurs earlier). See page 3 for further details.
- Environmentally Sensitive Areas.** The project site is not located in any of the following (unless exceptions specified in SB 35 apply): wetlands, a state-designated hazardous waste site, a delineated earthquake fault zone, a one percent (100-year) flood hazard area based on FEMA maps, a regulatory floodway, habitat for protected species, and land under a conservation easement.
- Demolition of Housing/Historic Structures.** The project is not located on a site where any of the following apply:
  - The project would demolish either (a) rental housing units restricted to persons/families of moderate, low or very low income, or (b) housing occupied by tenants within the past 10 years.
  - The site previously contained tenant-occupied housing within 10 years before application submittal.
  - The project would demolish a historic structure on a national, state or local historic register.
  - The site contains units 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.
- Union Labor (Projects over 10 units).** See page 3 for detailed requirements.

## Application Submittal and Tribal Consultation Procedures

1. **Confirm Eligibility.** Applicant confirms that the project meets the objective planning standards on page
2. **Notice of Intent (Preliminary Application).** Applicant submits a Notice of Intent in the form of a SB 330 Preliminary Application.
3. **Tribal Consultation.** Within 30 days of receiving a Notice of Intent, the City invites any California Native American tribe affiliated with the project's geographic area to engage in a scoping consultation. Tribes must accept the City's invitation within 30 days of receiving the invitation, and the City must commence the scoping consultation within 30 days of receiving the tribe's acceptance. If the consultation identifies tribal cultural resources on a national, state or local historic register list, or if any potential tribal cultural resources affected by the project are not addressed through an enforceable agreement between the development proponent and the tribe, the project shall not be eligible for approval under SB 35.
4. **Formal Application.** If, after tribal consultation, the project remains eligible for SB 35, the applicant submits the following (together referred to as the "Application" below):
  - SB 35 Checklist (if not already provided under Step 2)
  - City Planning Application
  - City Objective Design Standards Checklist
  - Project Narrative
  - Architectural Plans
  - State Density Bonus Supplemental Application (if applicable)

## Application Review and Decision

1. **Completeness and Compliance Review.** After the Application is submitted, Planning staff will review the application for any items that is missing from the City's application checklists identified above; a notification of completeness will be provided within 30 days of Application Submittal. Planning staff will also notify the applicant of any applicable objective standards that the project does not comply with within 60 days of application submittal for projects of 150 or fewer units, or within 90 days of application submittal for projects of more than 150 units. This notification shall include an explanation of the reason(s) why the project does not comply with any standard(s).
2. **Public Meeting.** No public meetings are currently required for SB 35 projects in Walnut Creek.
3. **Approval Decision.** If a project complies with all applicable objective standards, the Community Development Director will approve the Application within 90 days of application submittal for projects with 150 or fewer units, or within 180 days for projects with more than 150 units.
4. **Approval Expiration.** An approval is valid for three years from the date of the final action, except that an approval shall not expire if the project includes public investment in housing affordability beyond tax credits and if at least 50% of the units are affordable to households making at or below 80% of the area median income.
5. **Extension for Significant Progress.** A project may receive a one-time, one year extension of the approval if the developer shows significant progress toward getting the project ready for construction, such as filing a building permit application.

## CEQA

SB 35 projects are considered ministerial and therefore not subject to the California Environmental Quality Act (CEQA). As such, the City does not require applicants to prepare any studies that would be required under CEQA (i.e., traffic, air quality, noise, etc.) The City will only require an applicant to abide by objective standards that were in effect at the time the SB 35 Application was submitted. If an objective standard requires certain studies to be performed and there are objective standards to address the preparation and results of those studies, then the development would be required to prepare and implement those studies. An example of this would be stormwater treatment or sewer issues and compliance with regional permit requirements.

## Compliance with Objective Standards

### Design

SB 35 projects must comply with objective zoning, general plan, specific plan, subdivision and design standards. Specifically, the design of SB 35 units must meet the applicable standards of the City's [Design Review Standards and Guidelines for Residential and Residential Mixed-Use projects](#) (effective July 5, 2024).

**\*No waivers or exceptions can be requested.** A project that does not meet any of the requirements listed on the SB 35 Eligibility Checklist or the mandatory Objective Design Standards is not eligible for SB 35 processing and will be subject to the City's standard development review process. An exception to any objective zoning or other development standard (such as a variance, additional density, modification, or waiver eligible pursuant to State Density Bonus Law), is considered non-compliance with the standard for the purposes of SB 35. Note that a project meeting the requirements of SB 6 (Government Code section 65852.24) and Subdivision (a)(5)(E) of SB 35 would be deemed to be in compliance with objective standards.

### Parking

The project must provide at least one parking space per unit; however, no parking is required under the following instances:

- The development is located within one-half mile of public transit.
- The development is located within an architecturally and historically significant historic district.
- When on-street parking permits are required but not offered to the occupants of the development.
- When there is a car share vehicle located within one block of the development.

### Prevailing Wages/Union Labor

Projects with more than ten units (not including "public works" as defined in Labor Code Section 1720 et seq.) are subject to the following requirements:

- The prevailing wage rate must be included in all contracts. This wage be paid to all construction workers and certain apprentices.
- All contractors and subcontractors must maintain and verify payrolls pursuant to Section 1776 of the Labor Code.

In addition, union labor ("a skilled and trained workforce"), as well as other labor standards, are required for projects with 50 or more units or over 85 feet in height.

See Government Code Section 65913.4(a)(8) for complete labor requirements.

### SB 35 and Density Bonus

SB 35 projects can utilize all of the benefits offered under the Density Bonus Law in Government Code Section 65915, which includes density bonus and the granting of concessions, incentives and waivers of development standards to housing developments.

Also see the City's Density Bonus Ordinance (Walnut Creek Zoning Ordinance, Part III, Article 10) for additional density bonus provisions.

### Fees

SB 35 projects are subject to all permit application, school, and development impact fees that are required for the construction of any new dwelling unit. The City does not impose any additional fees solely on the basis that the project is eligible for SB 35 review. Contact the Building Division for additional information at [buildingtech@walnut-creek.org](mailto:buildingtech@walnut-creek.org) or (925) 943-5834.

For more information, contact the Duty Planner at [dutyplanner@walnut-creek.org](mailto:dutyplanner@walnut-creek.org) or (925) 256-3558