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# Short Summary - SB 35

Prepared March 6, 2018

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In 2017, the governor signed SB 35. This law requires cities to quickly approve developments that meet objective zoning standards using only a ministerial review process. However, due to conditions set in the bill, it may not apply to many proposals. *Note: This is a very general summary. Please see the law or more detailed summaries as well as consulting legal counsel. This summary was written for San Mateo County. Rules may apply differently in other places, e.g. rural areas. Thanks to Goldfarb and Lipman, LLC for their comments.*

## When it applies:

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- Jurisdictions that do not issue enough building permits to make progress on their RHNA or do not submit annual housing elements reports, and
- Multifamily projects that meet a number of conditions

## What happens:

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- Projects that meet specific requirements must be reviewed quickly using a ministerial process that applies only objective standards.
- If a project meets objective standards, it must be approved, without conditions that are not based on objective standards.
- Instead of using the zoning code for maximum density, developers may use the general plan maximum. If the General Plan and the zoning code are in conflict, the General Plan applies.
- Developments are not subject to CEQA
- Parking requirements are reduced or eliminated
  - No parking if site is within ½ mile of transit, within a block of a car share, etc.
  - One parking space per unit for all other sites

## Timing:

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Cities must act quickly. If not, the development is deemed consistent with the city's standards.

1. Small projects (150 or fewer units)
  - a. 60 days from submittal<sup>1</sup>- Provide list of all inconsistencies with 'objective' zoning and design review standards in effect
  - b. 90 days – (i.e. 30 more days) – Complete design review and oversight
2. Large Projects (Over 150)
  - a. 90 days from submittal - List of all inconsistencies
  - b. 180 days – (i.e. 90 more days) – Complete design review and oversight

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<sup>1</sup> The deadline is from submittal, not the date deemed complete



## Jurisdictions where it applies:

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Jurisdictions must do two things to avoid having SB 35 apply to them:

- Complete their annual housing element progress reports
- Produce enough above moderate and below moderate priced housing to be on track to satisfy their RHNA

## Which projects qualify:

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- The development must meet the following criteria:
  - Be multifamily housing<sup>2</sup>
  - Provide 10% or 50% of units affordable to 80% of AMI<sup>3</sup>
  - Use skilled/trained workforce and pay prevailing wage<sup>4</sup>
  - No demolition of affordable or rent controlled housing, historic properties or rental housing that contained tenants within the past 10 years<sup>5</sup>
- The site must also meet the following criteria:
  - At least 75% of the site's perimeter is or was developed
  - Have a zoning or general plan designation that allows residential or mixed use<sup>6</sup>
  - Not need to subdivide<sup>7</sup>
  - Not be in the following areas:
    - Coastal zone
    - Hazard areas<sup>8</sup>
    - Important environmental, farm or wildlife area<sup>9</sup>
    - Have mobile homes or RVs<sup>10</sup>
  - For unincorporated county it must also be in an urbanized area or urban cluster incorporated county

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<sup>2</sup> A single family home with an ADU does not count.

<sup>3</sup> The standard varies depending on a jurisdictions housing production. If it has not produced enough above moderate priced units, the 10% standard applies. If it has not produced enough below moderate priced units, the 50% standard applies.

<sup>4</sup> Prevailing wage rule only applies for 10+ units, and skilled and trained workforce requirement applies for 75+ units that are not 100% subsidized affordable housing until December 31, 2021.

<sup>5</sup> This includes demolition if housing occupied by tenants that happened up to 10 years before the proposal.

<sup>6</sup> At least two-thirds of the square footage in the project is designated for residences

<sup>7</sup> Unless LIHTC and paying prevailing wages or meeting all labor requirements.

<sup>8</sup> For example, hazardous waste containing, high or very high fire zones, flood plain, earthquake fault zone (unless compliant with seismic protection rules).

<sup>9</sup> Wetlands, prime farmland, important wildlife lands (protected species habitat).

<sup>10</sup> Or more precisely, a site that is governed by one of several mobile home park/RV laws