

SENATE BILL 35 ELIGIBILITY CHECKLIST

Government Code Section 65913.4, known as Senate Bill 35 (SB 35), creates a streamlined and ministerial approval process for certain housing projects which requires the City to review qualifying multifamily housing development projects using a ministerial review process. Eligible projects must comply with objective planning standards provided in Government Code Section 65913.4(a) and objective zoning, subdivision, and design standards. Note that any entitlement requests seeking to deviate from objective planning standards, such as zone changes or zone variances, are not eligible for SB 35 streamlining. Please review the ***Senate Bill 35 Information and Submittal Requirements*** on the City’s website.

Before an SB 35 application can be submitted, the applicant must submit a notice of intent in the form of a preliminary application that includes all of the information in Government Code Section 65941.1. Please review the ***Senate Bill 35 Preliminary Application Form*** on the City’s website. The City must then notify California Native American tribes traditionally and culturally affiliated with the area of the site to determine if they wish to engage in a scoping consultation. State law does not allow the City to accept this application until the Tribal Consultation and Scoping process has been completed.

This checklist references the various eligibility criteria for processing set forth in Government Code 65913.4 (applicable subsections noted below).

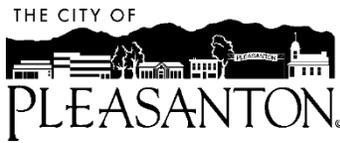
Yes	No	Eligibility Requirements
<input type="checkbox"/>	<input type="checkbox"/>	1. The project is a multifamily housing development (2 or more units) (subd. (a)(1)).
<input type="checkbox"/>	<input type="checkbox"/>	2. The applicant has dedicated a minimum of 50% of units as affordable at the moderate income level (80% AMI) (subd. (a)(4)(B)).
<input type="checkbox"/>	<input type="checkbox"/>	3. The site is a legal parcel (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)). <ul style="list-style-type: none"> ▪ For property designed for mixed-use, the development must contain 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)). <ul style="list-style-type: none"> ▪ If the applicant proposes a subdivision, the project is either finance with low income housing tax credits and satisfies applicable prevailing wage requirements, or the project satisfies the prevailing wage and skilled and trained workforce requirements (subd (a)(9)).

Yes	No	Eligibility Requirements
<input type="checkbox"/>	<input type="checkbox"/>	<p>7. The project meets the design requirement, “objective zoning standards,” “objective subdivision standards”, and “objective design review standards” (subd. (a)(5)).</p> <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, or within a block of a care share. One parking space per unit is required for all other site (subd. (e)).
<input type="checkbox"/>	<input type="checkbox"/>	<p>8. The project is outside of each of the following areas (subd. (a)(6)-(a)(7)).</p> <ul style="list-style-type: none"> ▪ Coastal zone ▪ Prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture and designated on Department of Conservation maps ▪ Wetlands as defined under federal law ▪ Earthquake fault zones, as determined by the State Geologist in published official maps, unless the development complies with applicable seismic protection building code standards ▪ Very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, or high or very high fire hazard severity zones as indicated on maps adopted by the Department of Forestry and Fire Protection; except if site has been excluded by the City or sites that have adopted fire hazard mitigation measures. ▪ Listed hazardous waste site, or hazardous waste site designated by Department of Toxic Substances Control, unless the site has been cleared for residential use or residential mixed use by the State Department of Public Health, Water Resources Control Board, or Department of Toxic Substances Control ▪ Within a 100 year flood area or FEMA designated flood plain or floodway, unless applicant is able to satisfy all applicable federal qualifying criteria ▪ 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"> - Housing subject to recorded rent restrictions, restricting rents to levels affordable to households of moderate, low, or very low income, - Housing subject to rent or price control, - Housing occupied by tenants within past 10 years, or - Historic structure(s) placed on a local, state, or federal register ▪ A site that previously used for housing that was occupied by tenants that was demolished within 10 years before this application is submitted ▪ A site that contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public, ▪ 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"/>	<p>9. The project proponent certified the entire development is a “public work” for purposes of prevailing wage law or if the project is not in its entirety a public</p>

Yes	No	Eligibility Requirements
		work, that all construction workers will be paid at least the prevailing wage (subd. (a)(8)(A)).
<input type="checkbox"/>	<input type="checkbox"/>	<p>10. The project proponent certified “a skilled and trained workforce” will be used to complete the development, or the development is 100% subsidized affordable housing, if the requirement is applicable (subd. (a)(8)(B)).</p> <ul style="list-style-type: none"> ▪ Bay/Coastal counties > 225K in population <ul style="list-style-type: none"> - Until 2022: Projects > 75 units - After 2022: Projects > 50 units ▪ Non-Bay/Coastal counties < 550k in population <ul style="list-style-type: none"> - Until 2020: Projects >75 units - 2020-2022: Projects >50 units - After 2022: Projects >25 units

Process Notes:

- If the municipal code requires more units to be affordable at the moderate income level, the City’s requirements apply.
- Because the Government Code section 65913.4 process is ministerial, eligible projects are exempt from CEQA.
- Small projects (≤ 150 units)
 - 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. (c)(1)(A)). If the project does not comply with all objective standards, it is ineligible for SB 35 review, although the applicant may reapply if the project can be redesigned to meet all objective standards.
 - 90 days from submittal – the City is required to complete a “design review or public oversight” and approve or deny the application. 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. (d)(1)(A)).
- Large projects (>150 units)
 - 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. (c)(1)(B)). If the project does not comply with all objective standards, it is ineligible for SB 35 review, although the applicant may reapply if the project can be redesigned to meet all objective standards
 - 180 days from submittal – the City is required to complete any “design review or public oversight” and approve or deny the application. The review or oversight “shall be objective and be strictly focused on assessing compliance with criteria required for streamline projects, as well as any reasonable objective design standards” (subd. (d)(1)(B)).



STREAMLINED HOUSING DEVELOPMENT CERTIFICATE FOR COMPLIANCE WITH ELIGIBILITY REQUIREMENTS

Date: _____

I, _____, do hereby certify and declare as follows:

(a) The subject property is located at (address and assessor's parcel number:

Address

Assessor's Parcel Number

- (b) I am a duly authorized officer or owner of the subject property.
- (c) The property owner agrees to comply with the applicable affordable housing dedication requirements established under Government Code section 65913.4(a)(3) and (a)(4).
- (d) The property owner agrees to comply with the applicable prevailing wage requirements established under Government Code section 65913.4(a)(8)(A).
- (e) The property owner agrees to comply with the applicable skilled and trained workforce requirements established under Government Code section 65913.4(a)(8)(B).
- (f) The property owner certifies that the project site has not contained any housing occupied by tenants within 10 years prior to the date written above.
- (g) The property owner certifies that information submitted to demonstrate compliance with all requirements of Government Code section 65913.4(a) is true and correct to the best of the owner's knowledge.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed on this day in:

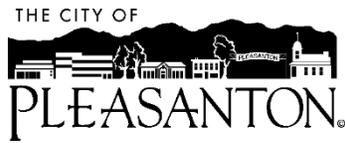
Location

Date

Signature

Print Name

Title



STREAMLINED HOUSING DEVELOPMENT CERTIFICATE FOR COMPLIANCE WITH ELIGIBILITY REQUIREMENTS

Date: _____

If the project includes more than 10 units, I _____, a duly authorized agent or owner of the subject property, certify that at least one of the following will be true for the development if the application is approved (check applicable sections):

- a. The entire development is a “public work” for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code; or
- b. The development in its entirety is not a public work. All construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:
- i. I shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.
 - ii. All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.
 - iii. Except as provided in subclause (v), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.
 - iv. Except as provided in subclause (v), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.
 - v. Subclauses (iii) and (iv) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, “project labor agreement” has the same

meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code

- vi. Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed on this day in:

Location

Date

Signature

Print Name

Title