



**City of Long Beach**  
*Working Together to Serve*

**Memorandum**

**Office of the City Attorney**

**DATE:** November 27, 2017

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Michael J. Mais, Assistant City Attorney 

**SUBJECT:** Senate Bill 35 (Streamlined Approval Process for Certain Types of Housing Developments)

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We have recently received inquiries regarding newly enacted Senate Bill 35 and its relationship to the City's General Plan and Land Use Element (LUE). Below is a summary of the Bill's major provisions and we will be available to respond to specific questions regarding the potential impact of SB 35 on the LUE at the time the issue is brought before the Council in mid-December. In the meantime, if any member of the Council has a specific question regarding SB 35 or would like further briefing, please do not hesitate to contact us.

Senate Bill 35 (SB 35) is one of several housing related bills passed by the Legislature and signed by Governor Brown on September 29, 2017. SB 35 creates a streamlined approval process for certain multi-family type developments in cities and counties that have failed to approve enough housing projects to meet their state required Regional Housing Needs Allocation ("RHNA"). The new law is specifically applicable to charter cities such as Long Beach. Qualifying projects meeting the strict requirements of SB 35 could be approved on a "ministerial", rather than "discretionary" basis, and therefore would not be subject to full environmental review under the California Environmental Quality Act (CEQA). The purpose of SB 35 is to facilitate and expedite the approval and construction of affordable housing units throughout the state.

SB 35 requires Long Beach and other jurisdictions to enhance their annual reporting requirements to the State Department of Housing and Community Development (HCD) so HCD can determine whether a particular jurisdiction is on track to meet its RHNA allocation. For example, cities will be required to file an annual report with HCD that specifies the number of housing units, broken down by income category, that have been issued full entitlements for construction during the previous reporting period. If HCD determines that a jurisdiction is deficient in approving enough new housing units by income type (or if a jurisdiction fails to file the required annual reports with HCD), then the "streamlined" approval process could be available to a developer if a proposed development meets all of the other ridged requirements of SB 35. SB 35 also requires HCD to create new annual reporting forms for use by cities and counties and requires

HCD to develop new guidelines to implement the various provisions of SB 35. It is anticipated that the new guidelines may not be available from HCD until sometime during the end of calendar year 2018.

To qualify for a streamlined approval process, a project must involve a development that contains at least two residential units located on a legal parcel or parcels. The parcel must be in an area already zoned for residential or mixed residential use development under the City's existing zoning code and general plan land use designations. If the project is a mixed-use project, at least two-thirds of the square footage must be designated for residential use and the project must otherwise fully comply with the applicable zoning and design review standards for the area of the proposed development. A project would not qualify for streamlining if the Developer is seeking a variance from any of the applicable zoning regulations for the area. The developer must commit to dedicating a specified number of units for affordable housing and commit to paying prevailing wages (or subject the project to a bona fide collective bargaining agreement) to those engaged in the construction of the project, if the project involves the construction of more than nine (9) residential units.

SB 35 will not apply to all proposed projects. For example, the streamlined approval process would not apply to projects located in the City's coastal zone, wetland or other sensitive habitat areas, hazardous waste sites, land located within an earthquake fault zone or in a designated flood plain area. The streamlined process would also not apply if the project involved the demolition of existing low income housing or designated historic structures, or if the project would replace existing housing that is already deed restricted for affordable housing purposes.

Under SB 35, the City would be required to inform an applicant in writing whether a proposed project qualifies for the ministerial approval process within a maximum of ninety (90) days (depending on the size of a project) after submittal of a development application. If the City informs an applicant that they have submitted a qualifying application, the City would then be obligated to complete design review (including any Planning Commission or other public review) of the project within ninety (90) or one hundred and eighty (180) days, depending on the size of the project. The design review process is required to be based on objective criteria and cannot be conducted in a manner that would inhibit, chill or preclude ministerial approval of the proposed project.

If a project is approved using the streamlined approval process, SB 35 limits the City's ability to impose certain parking requirements or standards. The City would not have the ability to impose any parking standard if the development was located within one-half mile of public transit, was located within an architecturally and historically significant historic district, when on-street parking permits are required but not offered to the occupants of the proposed development, or when there is a car share vehicle located within one block of the proposed development. If a development did not fall within one of the above described categories the City could impose a parking standard that did not

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exceed one parking space per unit. Of course, a developer always has the choice to provide parking even though the law does not require it.

The new laws established by SB 35 will remain effective, unless extended by the Legislature, until 2026.

**MJM:kjm**

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