



SB 35 Eligibility Criteria

Government Code Section 65913.4 provides that a development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process set forth in this section, and is not subject to a discretionary use permit if the development satisfies all of the following objective planning standards that follow below.

Note: Streamlined approval for affordable housing projects under Senate Bill 35 became effective in January, 2018. Annual updates to Government Code Section 65913.4 are anticipated. Development proponent must review and demonstrate compliance with the current State code. Current California Legislative Information can be found at this weblink: <https://leginfo.legislature.ca.gov/faces/home.xhtml>

Applicant: Submit the following verification information to confirm project eligibility for SB 35 streamlined approval.

- (1) Criterion: Multifamily housing development

Verification: Identify how many dwelling units are included in the development.

- (2) Criterion: Site location

- (A) In urbanized area or urban cluster

Verification: Provide the parcel number(s), address(es), and a copy of the County of Alameda's assessor map with the subject parcels: <https://www.acgov.org/MS/prop/index.aspx>

- (B) Adjoining parcels developed with urban uses

Verification: Indicate the location of the development and adjacent properties on a satellite view (such as Google Earth) or other depiction illustrating surrounding urban development.

- (C) Residential use or residential mixed-use development allowed on the site

Verification: Identify the following:

- Zoning District
- Zoning Overlay (if any)
- Permitted Uses (cite Berkeley Municipal Code)
- Berkeley General Plan Designation
- Other Area Plan Designation (if any)

- (3) Criterion: Commitment to land use restriction for the affordable units in the project for the required duration

Verification: Provide a written statement acknowledging the commitment and identify the form of anticipated recorded land use restriction and its duration, depending on the proposed housing tenure.

- (4) Criterion: Location in the City of Berkeley, which has issued less fewer building permits for low income housing units than allocated under Regional Housing Needs Assessment; commitment to affordability distribution for units in the project that meets requirements in this section (see the California Legislative Information website for details)

PLANNING & DEVELOPMENT

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Verification: Provide a written statement with a commitment and explanation of how the project complies with the affordability requirement.

(5) Criterion: Consistency with objective standards

(A) Consistency with objective zoning standards for density

Verification:

Submit a chart or table demonstrating compliance with applicable objective standards. See this link for an example:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Sample_Compliance%20with%20Objective%20Zon...pdf

Indicate the General Plan land use designation and associated density standards for the development site:

https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Land_Use_Element_Introduction.aspx

Indicate the zoning district and allowable density for the development site:

https://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/Zoning%20Map%2036x36%2020050120.pdf

The City of Berkeley GIS Portal is available as a reference: <https://www.cityofberkeley.info/gisportal/>

Submit a completed Tabulation Form, which compares existing, proposed and permitted/required development standards: <https://tinyurl.com/yxxq47jt>

If the development will utilize State Density Bonus Law, indicate the following:

- Any applicable Area Plan or Specific Plan and the associated objective land use, development and design standards, and demonstrate how the development will be consistent.
- Any applicable objective design guidelines and demonstrate how the development will be consistent.
- Any other applicable municipal code provisions (signs, subdivisions, streets, hazardous materials, environmental health, etc.) and demonstrate how the development will be consistent.
- Any applicable engineering, transportation/parking, urban forestry, storm drainage and other standards and demonstrate how the development will be consistent.

(B) Inconsistency of standards

Verification: If there are any identified conflicts between the zoning, general plan or design review standards, provide justification for reconciling those discrepancies and demonstrate how the development will be consistent.

(6) Criterion: Site location in special zones

(A) Coastal zone

Verification: No Action Required. The City of Berkeley is not within the Coastal Zone [the Bay is



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exempt under Public Resources Code Section 30103(a)]. <https://www.coastal.ca.gov/coastact.pdf>

(B) Farmland

Verification: No Action Required. The City of Berkeley does not have any designated farmland or conservation contracts. <https://maps.conservation.ca.gov/dlrp/ciff/>

(C) Wetlands

Verification: Document that the development would not be located on a site that has defined wetlands. <https://www.fws.gov/wetlands/data/mapper.html>

(D) Fire hazard severity zone

Verification: Indicate the development location on the State's Fire Hazard Severity Zone Map: <https://osfm.fire.ca.gov/media/5604/berkeley.pdf>

(E) Hazardous waste site

Verification: Submit a Hazardous Waste and Substance Statement: <https://tinyurl.com/w2nu4j8>

(F) Earthquake fault zone

Verification: Indicate the development location on a delineated earthquake fault zone map: <https://maps.conservation.ca.gov/cgs/EQZApp/> or submit evidence of compliance with seismic protection codes.

(G) Special flood hazard area

Verification: Indicate the development location on a flood plain map promulgated by the Federal Emergency Management Agency: <https://msc.fema.gov/portal/search#searchresultsanchor> or submit a copy of a letter of map revision or a flood plain development permit.

(H) Regulatory floodway

Verification: Indicate the development location on a floodway map promulgated by the Federal Emergency Management Agency: <https://msc.fema.gov/portal/search#searchresultsanchor> or submit a copy of a no-rise certification.

(I) Natural community conservation plan

Verification: No action required. There are no adopted NCCPs in the City of Berkeley: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=68626&inline>

(J) Habitat for protected species

Verification: Provide documentation that the development would not affect habitat for protected species identified as candidate, sensitive, or species of special status.



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(K) Conservation easement

Verification: No Action Required. The City of Berkeley does not contain any lands under conservation easement.

(7) Criterion: Site with housing or historic significance

- (A)** Demolition of rent/price restricted housing or long existing housing
- (B)** Site with history of tenant occupancy within the last ten years

Verification: Document the history of the development site (e.g. buildings, occupancy and demolition) to demonstrate that the development would not affect these types of housing. The Rent Stabilization Board has site-specific rent/price restriction and tenant history: phone, (510) 981-7368; email: rent@cityofberkeley.info; webpage: <https://www.cityofberkeley.info/rent/>.

(C) Demolition of a historic structure that was placed on a national, state, or local historic register

Verification: Document that the development site is not listed on a national, state or local historic register and/or would not require the demolition of a historic structure according to these official listings:

- https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_LPC/COB_Landmarks_updated%20April%202015.pdf
- http://ohp.parks.ca.gov/?page_id=21388
- <https://www.nps.gov/subjects/nationalregister/database-research.htm>

(D) Site is/was occupied by tenants, and subsequently offered for sale to the general public (see the California Legislative Information website for details)

Verification: Document that the development complies with this limitation.

(8) Criterion: Commitment to prevailing wage rates and skilled workforce

- (A)** Commitment to prevailing wage rates unless project is entirely a public work (such as the construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, but not work done by a public utility)

Verification: Document that the project is a public work or submit written commitment to provide prevailing wages as required for a project that is not a public work and includes more than 10 units.

- (B)** Commitment to hiring a skilled workforce if project qualifies for one of the criteria in this section (see the California Legislative Information website for details)

Verification: Demonstrate that the project qualifies or does not qualify for one of the criteria in this section.

(9) Criterion: Subdivision of a parcel that is subject to the Subdivision Map Act

Verification: Verify that the project does not involve a parcel that is subject to the Subdivision Map Act or other applicable subdivision law. Otherwise, document compliance with section. See the California Legislative Information website for details.



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- (10) Criterion: Mobilehome, recreational vehicle, and other special occupancy parks

Verification: No Action Required. The City of Berkeley does not contain mobile home, recreational vehicle, and other special occupancy parks.