



Mountain Housing Council Policy Memo

SB 35: Planning and zoning: affordable housing: streamlined approval process.

Bill Summary:

This bill requires local governments to create a streamlined, ministerial approval process (i.e. not requiring elected official approval) for infill developments, which will apply in localities that have failed to meet their regional housing needs assessment (RHNA) numbers. This means that qualifying developments will not be subject to the CEQA process, conditional use permits, or other similar discretionary entitlements granted by local agencies or commissions, and their approval will be expedited. Developers and sites must comply with specified criteria to receive this. The project must include 10% or more of affordable housing if it includes more than 10 housing units or 50% affordable housing if the locality did not meet its affordable housing needs as indicated in the report. If the project is deemed not compliant, the local government must supply written documentation and explanations of the standards not met; if it fails to do so within a specified time limit, the project will be deemed approved.

For an example of how the streamlined approval process has been adopted in some jurisdictions, an example application, and additional explanatory resources for developers and other local governments, see the San Francisco Planning Department's SB 35 web page at <http://sf-planning.org/article/california-senate-bill-35-sb-35-now-effect>.

Specifically, the bill:

1. Requires planning agencies to annually report the net number of new units of housing, including rentals and for-sale housing, and the income category that each new unit satisfies.
2. Allows a developer to apply for a development that would be subject to a streamlined process and avoid a conditional use permit if the development has **all of the following:**
 - a. Contains 2 or more residential units.
 - b. A site on legal parcel(s) in urbanized areas (both incorporated and unincorporated urban clusters are eligible).
 - c. 75% of the site perimeter adjoins parcels developed with urban uses
 - d. A site zoned for residential/mixed use development (at least 2/3 of the sq footage must be designated for residential use).
 - e. The developer must record a land use restriction if units in the proposed development will be subsidized (specifically, 55 years for rentals and 45 years for owned units).



- f. Is in a locality that has not met its regional housing needs, as determined by HCD (i.e. if the number of units issued permits is less than the number of units needed; this is based on regular reporting periods).
 - g. The development includes a minimum percentage of below market rate housing based on either one of the following:
 - i. Locality did not meet overall housing need: For projects with more than 10 units, 10% must be designated for households with an MHI of 80% or below (or greater than 10% as determined by a local ordinance); and the locality either did not report its permit-to-need ratio/or it did report, but the permitting did not meet the need.
OR
 - ii. Locality did not meet affordable housing need: 50% of the total units must be designated for households with an MHI of 80% or below (or higher as determined by a local ordinance); and the locality either did not report its permit-to-need ratio/or it did report, but the number of affordable housing units (by 80% MHI) permitted did not meet the need.
 - h. The development must be consistent with zoning and design standards in effect at the time of submission (excluding density/other concessions, incentives, waivers, granted by the Density Bonus Law).
 - i. The site is not in any of the following areas:
 - i. Coastal zone, prime farmland or land otherwise preserved for farmland, wetlands, lands identified for conservation, habitat for protected species, or lands under conservation easement.
 - ii. Within a high or very high fire hazard severity zone, a hazardous waste site, an earthquake fault zone, a flood plain, or a floodway (unless otherwise specified in the legislation – i.e if a toxic site has been cleared for residential use, or sites have adopted fire mitigation measures, etc.).
 - j. The developer must certify that the development is a public work OR that a skilled and trained workforce will be employed, if certain conditions apply to the development. The requirement to use a skilled and trained workforce or to pay prevailing wages is waived if the development meets certain conditions.
3. If the development does not meet the above standards, the local government must provide written documentation of which standards were not met and an explanation, within 60 days of the original submission (for 150 or fewer units) or 90 days (for 150+ units).
4. If the local government does not provide the above documentation, the development will be deemed approved.
5. Design review/public oversight may be conducted by the locally appropriate body (i.e. local planning commission or town council, etc.). The oversight must be objective and focused on assessing compliance with the criteria and any other relevant local standards (based on time of submission). The oversight must occur within 90 days of the original submission (for 150 or fewer units) or 180 days (for 150+ units).



6. Prohibits local government from imposing parking standards for the approved development IF the development is located within .5 mi of public transit, OR an architecturally and historically significant district, OR if there is a car share vehicle located within 1 block.
7. This bill expires on January 1, 2026.
8. Determines that affordable housing access is of statewide concern and is applicable to charter areas.