

SB 35 STREAMLINED MINISTERIAL PROJECT APPLICATION

ATTENTION: You must complete the [Tribal Consultation per AB 168](#) form and process before using the SB 35 application process. Please also check that you meet the SB 35 eligibility requirements listed on pages 5-6.

What is an SB 35 Streamlined Ministerial Project? This application is for affordable multifamily housing projects (two or more units) under the State of California ministerial approval process outlined in [Section 65913.4 of the California Government Code](#) and San José Municipality Code [Chapter 20.195 Ministerial Approvals](#).

For questions: Speak with a City Planner at 408-535-3555 during these hours at www.sanjoseca.gov/Planning.

Para información en español, comuníquese con un Planificador de la ciudad al **408-793-4100**

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại **408-793-4305**.

INSTRUCTIONS

As directed by a City Planner, complete this application and submit it with the Application Package.

FEES

Your invoice for permit application fees will be generated after you submit your application. Fees are outlined in the [Planning Fee Schedule](#). For initial fees and methods of payment, please visit www.sanjoseca.gov/PlanningApplications. Review of your submittal will not begin until initial fees are paid. Full fees must be paid within 14 days.

APPLICATION PACKAGE

HOW TO SUBMIT

- Schedule your required appointment at www.sanjoseca.gov/PlanningAppointments.
- Before the appointment, staff will create an [SJePlans](#) account for you and email you a login. Following instructions in the [SJePlans User Manual](#), upload your documents before your appointment.
- All documents, plans and forms must be saved as PDF files; see Planning's [File Naming Conventions](#).

WHAT TO SUBMIT. Please include the following in your application package:

- SB 35 STREAMLINED MINISTERIAL PROJECT APPLICATION (this form, completed)
- [STORMWATER EVALUATION FORM](#)
- [STORMWATER SUBMITTAL CHECKLIST](#) and all items on the checklist.
- If applicable, [DENSITY BONUS APPLICATION](#)
- LEGAL DESCRIPTION of the property.
- PRELIMINARY TITLE REPORT, only if the project is new construction. Must be dated within six months from date of application. Provide electronic copies of any documents referenced by a hyperlink.
- PLAN SET - Follow the [Contents of Plan Sheets](#) instructions. For the Site Plan, see this [illustrated example](#). Be sure to show building footprints/location for Non-Restricted Units, Restricted Affordable Units, and Density Bonus Units within the proposed development.
- If applicable, CERTIFICATION that the project will pay prevailing wages if project a) consists of more than 10 units and/or b) has any public funding. Please complete page 7.
- If applicable, CERTIFICATION that the project will employ a skilled and trained workforce. Please complete page 8.

Staff will assign FILE #

This is a computer-fillable PDF form and signatures, if required, must be a Digital ID Signature.
 Follow instructions for [Digital Forms & Signatures](#).

1. PROPERTY INFORMATION

APN/S SEE WWW.SCCASSESSOR.ORG USE A COMMA BETWEEN MULTIPLE NUMBERS: 467-14-001, 467-14-002, 467-14-003, 467-14-082, 467-14-052, 467-14-087

PROPERTY ADDRESS:

ZONING SEE WWW.SJPERMITS.ORG

GENERAL PLAN DESIGNATION SEE WWW.SANJOSECA.GOV/GPDESIGNATION:

2. PROJECT DESCRIPTION

2a. Is the project 100% Affordable Housing? Yes No

2b. Will the project use SB-35 in conjunction with the Affordable Housing Density Bonus Program? Yes No
 If yes, please submit a completed [Density Bonus Application](#).

2c. Will the project remove any trees? Yes No

If yes, enter: # ordinance-size trees: # non-ordinance-size trees: # total trees for removal:

A single-trunk ordinance-size tree is 38 inches or more in circumference, measured at 54 inches above ground. A multi-trunk ordinance-size tree is where the circumference of each trunk, measured at 54 inches above ground, adds up to 38 inches or more.
 Please view www.sanjoseca.gov/TreePermit for more information.

2d. Briefly describe the proposed Housing Development below; include the total number of proposed Dwelling Units, Restricted Affordable Units, and, if applicable, Density Bonus Units.

LOCATED ON E ST JOHN ST BETWEEN N15TH ST AND N 17TH ST IN SAN JOSE, EAST SANTA CLARA STREET MASTER PLAN - PHASE II PROJECT CONSISTS OF 3 PUBLICLY FUNDED DEVELOPMENTS - A 8-STORY (7 STORIES ABOVE GRADE & 1-STORY SEMI-SUBTERRANEAN) 100% AFFORDABLE LARGER FAMILY HOUSING, 114 UNITS, A 5-STORY 100% AFFORDABLE SENIOR HOUSING, 64 UNITS, AND 100% AFFORDABLE FOR-SALE TOWNHOMES, 36 UNITS. SITUATED ACROSS MULTIPLE PARCELS TOTALING APPROX. 3.10 ACRES, THE PROJECT IS WITHIN THE EAST SANTA CLARA STREET URBAN VILLAGE PLAN. UPON COMPLETION, THE PROJECT WILL DELIVER A TOAL OF 214 AFFORDABLE HOUSING UNITS.

THE RENTAL UNITS WILL BE AVAILABLE TO HOUSEHOLDS EARNING UP TO 60% AMI. THE FOR-SALE TOWNHOMES WILL BE AVAILABLE TO HOUSEHOLDS EARNING UP TO 80% AMI. UNDER THE ZONING DESIGNATION THERE IS NO MAXIMUM DENSITY FOR 100% AFFORDABLE PROJECTS SO THIS PROJECT IS NOT REQUESTING DENSITY BONUS UNITS. THE PROJECT FUNDING SOURCES (TCAC, COUNTY FUNDS) WILL ENSURE AFFORDABILITY.

3. REQUIREMENT FOR RESIDENTIAL SQUARE FOOTAGE

Calculate the square footage to be required for residential use:

	X	2/3 (required formula)	=		
Project's Total Square Footage*				Required Minimum Square Footage for Residential use	Enter Total Proposed Square Footage for Residential Use

* Do not include basements, underground garages, or other underground space.

4. AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT THE FOLLOWING IS TRUE AND CORRECT, AND THAT THEY UNDERSTAND THAT THE FOLLOWING APPLIES TO THEIR PROJECT:

- 1. **Owners.** The undersigned are all the owners of all the property described in this application.
- 2. **Easements.** The development plans as part of this application show the exact location, size, and use of all easements on the subject site and all easements on surrounding properties benefiting the subject property.
- 3. **Deactivated Water Wells.** Any existing or deactivated water wells on your property must be shown on your plans. The property which is the subject of this application: **CHECK ONE**

- does contain existing active or deactivated water wells and they are shown on the plans accompanying this application.
- does not contain existing active or deactivated water wells.

4. **Hazardous Waste and Substance Sites.** In conformance with California Government Code Section 65962.5, I hereby certify that I have reviewed the list of [Hazardous Waste and Substance Sites](#) within the City of San José, as compiled by the State Department of Toxic Substances Control. The property which is the subject of this application: **CHECK ONE**

- is not on said list.
- is on said list. The listed item reads as follows:

5. **Wastewater Treatment Capacity.** San José Municipal Code, Chapter 15.12, Part 2.75 requires that an applicant acknowledge the effect of land development approvals on wastewater treatment capacity at the time of application. I hereby acknowledge the requirements of the Municipal Code, as stated herewith, and understand that these requirements will apply to the development permit for which I am applying:

No vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on San José-Santa Clara Regional Wastewater Facility (RWF) represented by approved land uses in the RWF service area will cause the total sewage treatment demand to meet or exceed the capacity of the RWF to treat such sewage adequately and within the discharge standards imposed on the City by the Regional Water Quality Control Board for the San Francisco Bay Region.

[Redacted Signature]

• **SIGNATURE** of Property Owner, Qualified Tenant, or acceptable signatory per [SJMC Section 20.100.110](#) DATE: [MM/DD/YYYY]

PRINT NAME: [Redacted]

TITLE IF APPLICABLE: [Redacted]

FIRM NAME IF APPLICABLE: [Redacted]

EMAIL: [Redacted]

PHONE: [Redacted]

MAILING ADDRESS: [Redacted]

[A Digital ID Signature](#) is required. By signing this application, you acknowledge that you are the property owner, the legally authorized agent of the property owner, a qualified tenant, or other signatory as allowed by [San José Municipal Code Section 20.100.110](#). For signatures by multiple property owners, use the [Affidavit of Ownership-Multiple Owners Form](#).

5. INDEMNIFICATION AGREEMENT FOR DEVELOPMENT APPLICATIONS

Applicant submitted an application to the City of San José Planning Division on (enter date): _____

for the following development approval/s: _____

_____ (the "Project").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Project application(s) to each and every one of the following terms and conditions:

1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of San José ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:

- a. Any approvals issued in connection with any of the above described applications by City; and/or
- b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification includes, but is not limited to, damages, fees and/or costs awarded against or incurred by City, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding, whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

- 2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.
- 3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting,

revising, or amending, any document (such as an environmental impact report, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding, and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

- 4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:
 - a. The counsel to so defend City; and
 - b. All significant decisions concerning the manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.

5. City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

6. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

APPLICANT SIGNATURE

DATE [MM/DD/YYYY]

PRINT NAME

TITLE, IF ANY

A Digital ID Signature is required. By signing this application, you acknowledge that you are the property owner, the legally authorized agent of the property owner, a qualified tenant, or other signatory as allowed by [San José Municipal Code Section 20.100.110](#). For multiple property owners, use the [Affidavit of Ownership-Multiple Owners Form](#).

SB 35 ELIGIBILITY CHECKLIST

Projects must meet all of the following requirements to be eligible for the SB 35 streamlined process:

-
1. The project is a multifamily housing development (2 or more units) (subd. (a)(1)). Yes No
-
2. The applicant has dedicated a minimum of 50% of units as affordable at or below the moderate-income level (80% AMI) (subd. (a)(4)(B)) Yes No
-
3. The site is in an “urbanized area” or “urban cluster” as designated by the Census (subd. (a)(2)(A)). Yes No
-
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)). Yes No
-
5. The site has a zoning or a general plan designation that allows for residential use or residential mixed-use development (subd. (a)(2)(C)). Note: For property designed for mixed-use, the designation must require at least “two-thirds of the square footage of the development” to be residential. Yes No
-
6. The project does not include a subdivision of land (subd. (a)(9)). Yes No
 There are exceptions to this rule per 65913.4(a)(9)(A) & (B):
- The development has received, or will receive, financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to Section 403 of these Guidelines.
 - The development is subject to the requirement that prevailing wages be paid and a skilled and trained workforce used.
-
7. The project meets the design requirements “objective zoning standards” and “objective design review standards” (subd. (a)(5)). Yes No
-
8. The project is outside each of the following areas (subd. (a)(6)-(a)(7)). Yes No
- Coastal zone
 - Prime farmland or farmland of statewide importance
 - Wetlands as defined under federal law
 - Earthquake fault zones
 - High or very high fire hazard severity zones
 - Hazardous waste site
 - FEMA designated flood plain or floodway
 - Protected species habitat
 - Lands under a conservation easement
 - Lands designated for conservation in a habitat conservation plan
 - A site that would require demolition of (a) housing subject to recorded rent restrictions, (b) housing subject to rent control, (c) housing occupied by tenants within past 10 years, or (d) an historic structure placed on a local, state, or federal register
 - A site that previously contained housing occupied by tenants within past 10 years
 - 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.

continued

9. The project proponent certified that the entire development is a “public work” for purposes of prevailing wage law or that the construction workers will be paid at least the prevailing wage (subd. (a)(8)(A)). Yes No

10. The project proponent certified that “a skilled and trained workforce” will be used to complete the development, if the requirement is applicable (subd. (a)(8)(B)). Note(s): Yes No

- This requirement is not applicable to projects of 10 units or less and that are not a “public work for purposes of the prevailing wage law.

- **Bay/Coastal counties** > 225k in population:

Until 2022, Projects >75 units

After 2022, Projects >50 units

- **Non-Bay/Coastal counties** < 550k in population:

Until 2020, Projects >75 units;

2020-2022, Projects >50 units;

After 2022: Projects >25 units

NOTES:

1. CEQA Exemption: Because the Government Code section 65913.4 process is ministerial, eligible projects are exempt from CEQA.

2. Timing: Depending on the project size the following deadlines shall be observed:

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. (b)).
- *90 days from submittal* – the City is required to complete a “design review or public oversight.” 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. (a)(c)).

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.(b)).
- *180 days from submittal* - the City is required to complete a “design review or public oversight”. 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. (a)(c)).

OFFICE USE ONLY		
INTAKE DATE:	BY:	PAID: \$
COMMENTS:		

PREVAILING WAGE CERTIFICATION

Complete this form only if your project consists of more than 10 units and/or funded in whole or in part by public money.

This is to certify under penalty of perjury that the undersigned is/are the record owner(s) of the property known as:

APN/S:

LEGAL DESCRIPTION:

STREET ADDRESS:

We consent to the filing of an application on our property for an administrative review by the City of San Jose pursuant to Section 65913.4 of the California Government Code. I/ We declare that either of the following is true and correct:

- The entirety of the proposed development is a public work for purposes of Chapter 1 (commencing with Section 1720)of Part 7 of Division 2 of the California Labor Code (“Labor Code”).
- The proposed development is not in its entirety a public work, and that 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. For those portions of the development that are not a public work, I/we further certify that 1) the prevailing wage requirement is/will be included in all contracts for the performance of the work; and 2) I/we have read and understand all applicable provisions in Section 65913.4(a)(8)(A) of the Government Code, including those pertaining to the procedures for the enforcement of the prevailing wage requirement.

Executed on [date] at California, under penalty of perjury of the laws of the State of California.

To be signed by all record owners

[Redacted Signature]

• **PROPERTY OWNER SIGNATURE** DATE [MM/DD/YYYY]

[Redacted Signature]

PRINT NAME

• **PROPERTY OWNER SIGNATURE** DATE [MM/DD/YYYY]

PRINT NAME

A [Digital ID Signature](#) is required of the property owner/s or legally authorized agent of the property owner/s. By signing this application, you acknowledge that you are the property owner/s or a legally authorized agent of the property owner/s.

For additional property owner signatures, use the [Affidavit of Ownership-Multiple Property Owner Form](#).

NOTARY TO BE ATTACHED

SKILLED AND TRAINED WORKFORCE CERTIFICATION

PREVAILING WAGE CERTIFICATION

Complete this form only if your project 1) consists of 50 or more units; and 2) is not 100% affordable to lower or very low income households.

This is to certify under penalty of perjury that the undersigned is/are the record owner(s) of the property known as: _____

APN/S: _____

LEGAL DESCRIPTION: _____

STREET ADDRESS: _____

We consent to the filing of an application on our property for an administrative review by the City of San Jose pursuant to Section 65913.4 of the California Government Code. I/ We declare that either of the following is true and correct:

- The proposed development a) consists of 50 or more residential units; and b) is not 100% affordable to lower or very low income households.
- A skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code, will be used to complete the development.
- I/we have read and understand all applicable provisions set forth in Section 65913.4(a)(8)(B) of the Government Code, including but not limited to: reporting requirements, penalties for failure to report or comply, and other labor compliance enforcement requirements.

Executed on _____ [date] at _____ California, under penalty of perjury of the laws of the State of California.

To be signed by all record owners

• PROPERTY OWNER SIGNATURE DATE [MM/DD/YYYY]

PRINT NAME

• PROPERTY OWNER SIGNATURE DATE [MM/DD/YYYY]

PRINT NAME

A [Digital ID Signature](#) is required of the property owner/s or legally authorized agent of the property owner/s. By signing this application, you acknowledge that you are the property owner/s or a legally authorized agent of the property owner/s.

For additional property owner signatures, use the [Affidavit of Ownership-Multiple Property Owner Form](#).

NOTARY TO BE ATTACHED