

# SB-330 Housing Crisis Act

CA Senate Bill 330 (SB-330) amended a number of statutory provisions and added Gov. Code § 66300, commonly referred to as the Housing Crisis Act of 2019 (HCA), which became effective on Jan. 1, 2020. This Info-Bulletin provides an overview of how the HCA affects the city's review and approval of eligible housing developments. The bulletin has been updated consistent with SB-8 (effective Jan. 1, 2022).



## BACKGROUND

The HCA is based on the idea that needed housing has largely already been planned for by local jurisdictions. According to a 2019 report prepared by UCLA Lewis Center for Regional Policy Studies, cities and counties in the state have collectively approved zoning for roughly 2.8 million new housing units. However, the housing is not getting built.

The development community contributes the lack of housing production to growing regulatory requirements, permit processing delays, and excessive impact and service fees that get imposed on new development and growth.

In response, HCA created a number of new procedures and legislative limitations on municipalities with the goal of streamlining the entitlement process by slashing the time and costs it takes to secure permits for housing that meets the local government's existing rules.

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## Documents Referenced

The Housing Crisis Act; [SB 330](#)  
Government Code [§65589.5](#)  
Government Code [§51178](#)  
Government Code [§65582\(i\) and \(h\)](#)  
Government Code [§65650](#)  
Government Code [§65950](#)  
Government Code [§65913.4](#)  
Government Code [§65941.1](#)  
Government Code [§66300](#)  
Prelim Housing Development (SB-330) Pre-Application; [P-32](#)  
State Density Bonus Law, [IB-112](#)  
Density Bonus Supplemental Checklist; [P-1\(H\)](#)  
Informal Preliminary Review Request Form; [P-14](#)  
[Master Fee Schedule](#)  
CMC Title 21 Definitions; [§21.04](#)  
Carlsbad Growth Management Plan [Webpage](#)

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The following sections provide information on some of the more important provisions of the HCA. *It should be noted that the HCA is currently intended to apply to housing developments projects which have submitted a preliminary application before Jan. 1, 2030, and the HCA, as a whole, sunsets on Jan. 1, 2034.*

## PROJECT ELIGIBILITY

Projects that are located outside of California Department of Forestry and Fire Protection's (CALFIRE) mapped "Very-High Fire Severity" zones (Gov. Code [§51178](#)) and meet the following definitions of Housing Development are eligible for benefits afforded under the HCA (Gov. Code [§65589.5\(h\)\(2\)](#)).

- Residential unit projects consisting of two or more units (including a single-family residence and Accessory Dwelling Unit); or,
- Mixed-use development consisting of residential and nonresidential uses with at least two-thirds of the square footage of the project designated for residential use; or,

- Transitional Housing or Supportive Housing project (see definitions of each term in Gov. Code [§65582\(j\) and \(h\)](#), [§65650](#), and Carlsbad Municipal Code (CMC) Title 21 [Chapter 21.04](#)).

## APPLICATION PROCESSES

### Preliminary Housing Development Pre-Application

Eligible projects that seek the vesting and processing benefits offered under SB-330 are first required to submit a Preliminary Housing Development (SB-330) Pre-Application, which the city refers to as the SB-330 Pre-App ([Form P-32](#)), and a Density Bonus Application, if applicable ([Form P-1\(H\)](#)). The application needs to include information and supporting documentation as required in the SB-330 Pre-App (Gov. Code [§65941.1\(a\)](#)), as well as payment of the permit fee; charged as a “Preliminary Plan Review – Minor.” The fee is \$240 (FY 2021-22) but refer to the city’s master fee schedule for the most current fees.

The application materials are reviewed by city staff at a filing appointment to determine whether the required submittal items are present so the city can accept the submittal and “deem



complete” the application. While not required under state law, deemed complete applications will be approved (signed) by staff at the filing appointment.

An approved application allows a development project to be submitted under the permit streamlining provisions of SB-330, and generally limits the city to only applying those ordinances, policies, rules, regulations, fees (excluding annual adjustments), and development standards that are in place on the date the SB-330 Pre-App was approved. (Gov. Code [§65589.5\(o\)\(1\)](#))

### Discretionary Permit Application

The SB-330 Pre-App is not intended to represent an in-depth analysis of the proposed project and does not take the place of required discretionary applications and approvals. The project is still subject to all required discretionary permits, processing procedures, hearings and timelines governed by state law, including the California Environmental Quality Act (CEQA) and the Coastal Act. Development applications must be submitted within 180 days from submittal of the Pre-App.

State law requires public agencies to determine the completeness of a development application within 30 days based on specific contents of the application, rather than information deemed relevant by the individual planner. If the city does not make this determination within 30 days, the application is automatically deemed complete.

If a project application is determined incomplete, the city is required to provide the applicant with a list of items that were not complete. The list must be limited to those items actually specified on the city’s application submittal requirement checklist.

Furthermore, the city cannot request that the applicant provide any new information that was not stated in the initial list of items that were listed as incomplete. This does not preclude the city from requesting additional information as part of the CEQA process. (CEQA Guidelines §§ 15060, 15084.)

Once the discretionary permit application is deemed complete, for residential developments proposing 150 units or fewer, the city has 30 days from the date that an application is deemed complete to determine whether the project is

“deemed consistent” with applicable plan, program, policies, ordinances, and standards.

Cities have 60 days for residential developments proposing greater than 150 units. (Gov. Code [§65589.5\(j\)\(2\)\(A\)](#).) Different timelines apply for ministerial applications. (Gov. Code [§65913.4\(c\)\(1\)](#).) Failure to meet this deadline automatically deems the project consistent.

Following certification of an Environmental Impact Report (EIR), jurisdictions generally have 90 days, to approve or disapprove the project. For low-income projects seeking tax credits or public funding, that time frame is 60 days. Following approval of a Negative Declaration or a CEQA Exemption, jurisdictions have 60 days to approve or disapprove the project. (Gov. Code [§65950](#).)

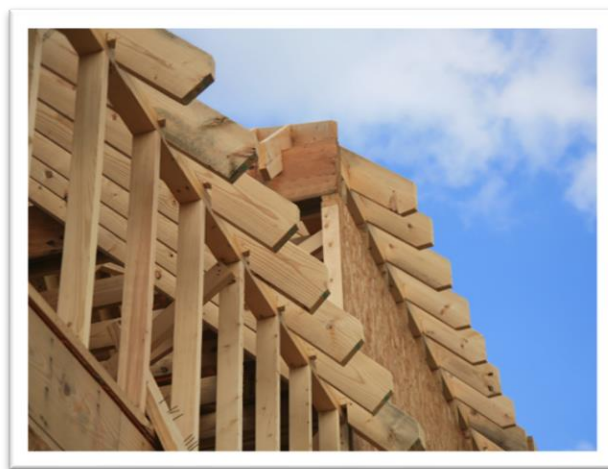
## IMPORTANT TIMELINES FOR APPLICANT

To retain the benefits granted through the SB-330 Pre-Application process, a project must meet the following timelines and project thresholds:

- The application must be filed with the city’s Planning Division and deemed complete prior to filing a formal application requesting approval of any discretionary action for an eligible housing development project.
- If the SB-330 Pre-App for the development project is not deemed complete at the filing appointment, the applicant shall submit the specific information needed to complete the application within 90 days of receiving *the* agency’s written identification of the necessary information.
- Once the city accepts a complete SB-330 Pre-App, the applicant has 180 calendar days from the acceptance date to submit a discretionary permit application to the city for processing.
- The project proposed in the discretionary permit application can deviate by no more than 20 percent from the project reflected in the SB-330 Streamline Application (exclusive of any increase resulting from the receipt of a density bonus, concession, waiver, or similar provision). (Gov. Code § 65941.1(c).)
- If the applicant does not submit the requested information to address an incomplete Pre-App within the 90-day period, or a formal

application is not received within the 180-day period from pre-application acceptance, then the SB-330 Pre-App shall expire and have no further force or effect. (Gov. Code [§65941.1\(d\)](#))

- Construction of the project must commence within three and one-half (3½) years following the date that the formal discretionary project receives final approval. “Final approval” includes all necessary approvals (including other agencies’ approvals and permits) to be eligible to obtain building permits, and all appeal periods or statutes of limitations have been exhausted or resolved in favor of the housing development project. (Gov. Code § 65589.5(o)(2)(D))



## IMPORTANT JURISDICTIONAL LIMITATIONS

As previously noted, SB-330 was intended to help the state address the housing supply crisis by removing barriers to the approval process for residential and mixed-use projects. Below are some of the more significant provisions of the HCA that limit the city’s land use authority.

- Cities may only apply those rules, regulations, fees and development standards that are in place on the date the SB-330 Pre-App was deemed complete.
- Cities are prohibited from enforcing caps on housing development. As such, the citywide and quadrant housing caps listed in the city’s Growth Management Plan (GMP) cannot be applied to new housing development projects,

as documented in City Council Resolution No. [2021-074](#).

- Cities are prohibited from enacting a development policy, standard, or condition that would have the effect of imposing a moratorium or limitation on housing development, unless the city finds that there is an imminent threat to the public health and safety. As discussed in Resolution No. 2020-104, 2020-208, No. 2021-003, these limitations have prevented the city from adopting moratoria in response to exceedances of the city’s Growth Management Plan Performance Standards.
- Only objective design standards can be applied to eligible housing development projects. Development standards that are subject to interpretation and subjective in nature cannot be applied to the project.
- Cities are limited to holding no more than five hearings on housing development projects which comply with applicable objective standards after development applications have been found complete. A “hearing” covers any public hearing, workshop, or similar meeting that is held by the City Council, Planning Commission, or other departments. If the city continues a hearing, the continued hearing counts as one of the five hearings. These provisions do not apply to projects requesting legislative approvals.
- The City Council generally cannot deny a Housing Development project unless it is able to make written findings, pursuant to Gov. Code §65589.5(d), based on the preponderance of the evidence in the record that either:
  - The city has already met its Regional Housing Needs Assessment (RHNA) requirement;
  - There is a specific adverse impact upon the public health or safety and this impact cannot be mitigated;
  - Approval of the project would violate State or Federal law and this violation cannot be remedied; or,

- The project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes,
- The project does not have adequate water or wastewater facilities to serve the project.
- The project is inconsistent with the zoning ordinance and general plan land use designation.

### NO NET-LOSS OF UNITS

In addition to the items listed above, HCA generally limits a city’s ability to reduce the permitted residential density below that in place on January 1, 2018 without concurrently increasing density on other property. This is referred to as the “no net-loss” provision. (Gov. Code, [§66300\(b\)\(1\)\(A\).](#))

SB-8, which becomes effective January 2022, clarified the definition of “concurrent” in the HCA to mean the action is approved at the same meeting of the legislative body. However, if the action that would result in a net loss is requested by an applicant for a housing project, “concurrently” means “within 180 days.”



### PRE-APPLICATION REVIEW (OPTIONAL)

Early consultation with the city is strongly recommended since codes, standards and housing requirements may apply to your project that could affect the anticipated scope of a project. Although it is not required, staff recommends applicants informally discuss their preliminary review application with Staff ([P-14](#)) to obtain input PRIOR

to submitting a Preliminary Housing Development (SB-330) Pre-Application ([Form P-32](#)).

This review could assist in scoping the development project, may provide a road map for what discretionary applications will be required, and may raise important issues of concern as the project design is developed. This will help further streamline the review process, consistent with the intent and purpose of the HCA.

### **YOUR OPTIONS FOR SERVICE**

To schedule an appointment or to learn more about this process, please contact the Planning Division at 760-602-4610 or via email at [Planning@carlsbadca.gov](mailto:Planning@carlsbadca.gov).

