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TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 2. SUBDIVISIONS [66410 - 66499.41] (*Division 2 added by Stats. 1974, Ch. 1536.*)

CHAPTER 8. The Starter Home Revitalization Act of 2021 [66499.40 - 66499.41] (*Chapter 8 added by Stats. 2021, Ch. 154, Sec. 2.*)

66499.40. (a) A development proponent may submit an application that allows development of small home lot development, as defined in subdivision (b).

(b) A small home lot development for purposes of this section is a development that meets all of the following requirements:

(1) The proposed development is located on a lot zoned for multifamily residential development that is no larger than five acres and is substantially surrounded by qualified urban uses.

(2) The development proponent proposes to construct single-family housing units on fee simple ownership lots.

(3) The proposed development will, pursuant to the requirements of this division, meet one of the following, as applicable:

(A) If the parcel is identified in the jurisdiction's housing element pursuant to Section 65583.2, the development will result in at least as many units as projected for that parcel in the housing element.

(B) If the parcel is not identified in the jurisdiction's housing element, the development will result in at least as many units as the maximum allowable residential density, unless the zoning for the site allows for midrange density.

(C) If midrange density is specified for the site, the development will result in at least as many units as are allowed under the midrange density standard.

(4) The residential properties within a radius of 500 feet of the site are zoned to have an allowable residential density of less than 30 dwelling units per acre.

(5) The site complies with the external existing site front, side, and rear setback requirements.

(6) The proposed units comply with existing height limits, if applicable.

(7) The jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1.

(8) The proposed site is not identified in the housing element pursuant to Sections 65583 and 65583.2 as a site to accommodate any portion of the jurisdiction's regional housing need for low-income or very low income households.

(9) The average total area of floorspace for the proposed units does not exceed 1,750 net habitable square feet.

(10) The development complies with any local inclusionary housing ordinances adopted by the local agency, if applicable.

(11) The development of a housing development project on the proposed site to be subdivided does not require the demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.

(D) A parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(c) (1) Except as provided in paragraph (2), the local agency may impose conditions upon a small lot development in accordance with this division that are not in conflict with this section.

(2) A local agency shall not impose any of the following requirements on a small home lot development:

(A) A setback requirement between the units, except as required in the California Building Code (Title 24 of the California Code of Regulations).

(B) A minimum requirement on the size of an individual small home lot created by the development.

(C) A requirement that parking be enclosed or covered.

(D) The formation of a homeowners' association.

(3) A local agency may condition the approval and recordation of a small lot development upon issuance of a certificate of occupancy or final inspection for all units in the small lot development.

(d) A local agency may amend its zoning ordinances or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of a small home lot development if the provisions are not in conflict with the requirements of this section. A local agency may adopt policies, procedures, or other provisions applicable to the creation of a small home lot development that allow for the creation of more housing units than allowed by the requirements of this section.

(e) For purposes of this section:

(1) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the multifamily site. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(2) "Local inclusionary housing ordinance" means a mandatory requirement, as a condition of the development of residential units, that the development include a certain percentage of residential units affordable to, and occupied by, households with incomes that do not exceed the limits for extremely low, very low, lower, low-, or moderate-income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance may provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, offsite construction, or acquisition and rehabilitation of existing units.

(3) "Qualified urban use" has the same meaning as defined in Section 21072 of the Public Resources Code.

(4) "Site" means the proposed location for the small home lot development before it is subdivided into parcels for the small home lot development.

(5) "Substantially surrounded" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 21159.25 of the Public Resources Code.

(6) "Unit" means a single-family housing unit constructed pursuant to this section.

(f) The requirements set forth in this section are in addition to, and not an exception from, the requirements set forth in Section 65863.

(g) A city, county, or city and county shall approve an application for a small home lot development unless it makes one of the following findings:

(1) The small lot development does not meet the requirements of this section.

(2) The small lot development does not comply with all requirements of this division that are not in conflict with this section.

(3) The small lot development does not comply with all local general plan, zoning, subdivision, and design standards that do not conflict with this section.

(4) The small lot development would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the small lot development financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(Added by Stats. 2021, Ch. 154, Sec. 2. (AB 803) Effective January 1, 2022.)

66499.41. (a) A local agency shall ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets all of the following requirements:

(1) (A) The proposed subdivision will result in 10 or fewer parcels and the housing development project on the lot proposed to be subdivided will contain 10 or fewer residential units, except as provided in subdivision (g).

(B) The proposed subdivision may designate a remainder parcel, as defined under Section 66424.6, that retains existing land uses or structures, does not contain any new residential units, and is not exclusively dedicated to serving the housing development project. The remainder parcel shall not be counted against the 10-parcel maximum permitted under subparagraph (A).

(2) The lot proposed to be subdivided meets all of the following sets of requirements:

(A) The lot is one of the following:

(i) Zoned to allow multifamily residential dwelling use.

(ii) Vacant and zoned for single-family residential development. For purposes of this paragraph, "vacant" means having no permanent structure, unless the permanent structure is abandoned and uninhabitable. All of the following types of housing shall not be defined as "vacant:"

(I) Housing that is subject to a recorded covenant, ordinance, or law that restricts rent or sales price to levels affordable to persons and families of low, very low, or extremely low income.

(II) Housing that is subject to any form of rent or sales price control through a local public entity's valid exercise of its police power.

(III) Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.

(B) (i) A lot zoned to allow multifamily residential dwelling use is no larger than five acres and is substantially surrounded by qualified urban uses.

(ii) A vacant lot zoned for single-family residential development is no larger than one and one-half acres and is substantially surrounded by qualified urban uses.

(iii) For purposes of this subparagraph, the following definitions apply:

(I) "Qualified urban use" has the same meaning as defined in Section 21072 of the Public Resources Code.

(II) "Substantially surrounded" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 21159.25 of the Public Resources Code.

(C) The lot is a legal parcel located within one of the following:

(i) An incorporated city, the boundaries of which include some portion of an urbanized area.

(ii) An urbanized area or urban cluster in a county with a population greater than 600,000 based on the most recent United States Census Bureau data.

(iii) For purposes of this subparagraph, the following definitions apply:

(I) "Urbanized area" means an urbanized area designated by the United States Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.

(II) "Urban cluster" means an urban cluster designated by the United States Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.

(D) The lot was not established pursuant to this section, including a designated remainder parcel described in subparagraph (B) of paragraph (1), or Section 66411.7.

(3) (A) Except as specified in subparagraphs (B) and (C), the newly created parcels are no smaller than 600 square feet.

(B) If the parcels are zoned for single-family residential use, the newly created parcels are no smaller than 1,200 square feet.

(C) A local agency may, by ordinance, adopt a smaller minimum parcel size subject to ministerial approval under this subdivision.

(4) The housing units on the lot proposed to be subdivided are one of the following:

(A) Constructed on fee simple ownership lots.

(B) Part of a common interest development.

(C) Part of a housing cooperative, as defined in Section 817 of the Civil Code.

(D) Constructed on land owned by a community land trust. For the purpose of this subparagraph, "community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

(i) Has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences.

(ii) All dwellings and units located on the land owned by the nonprofit corporation are sold to qualified owners to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income. For the purpose of this subparagraph, "qualified owner" means a person or family of low or moderate income, including a person or family of low or moderate income who owns a dwelling or unit collectively as a member occupant or resident shareholder of a limited-equity housing cooperative.

(iii) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years.

(E) Part of a tenancy in common, as described in Section 685 of the Civil Code.

(5) The proposed housing development project will, pursuant to the requirements of this division, meet one of the following, as applicable:

(A) If the parcel is identified in the jurisdiction's housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1, the housing development project will result in at least as many units as projected for that parcel in the housing element. If the parcel is identified to accommodate any portion of the jurisdiction's share of the regional housing need for low-income or very low income households, the housing development project will result in at least as many low-income or very low income units as projected in the housing element. These units shall be subject to a recorded affordability restriction of at least 45 years.

(B) (i) If the parcel is not identified in the jurisdiction's housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1, the housing development project will result in at least 66 percent of the maximum allowable residential density as specified by local zoning or 66 percent of the applicable residential density specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is greater.

(ii) Where local zoning does not specify a maximum allowable residential density, the housing development project will result in at least 66 percent of the applicable residential density as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(iii) The area of any designated remainder parcel described in subparagraph (B) of paragraph (1) shall be excluded from the calculation of residential density under this paragraph.

(6) The average total area of floorspace for the proposed housing units on the lot proposed to be subdivided does not exceed 1,750 net habitable square feet. For purposes of this paragraph, "net habitable square feet" means the finished and heated floor area fully enclosed by the inside surface of walls, windows, doors, and partitions, and having a headroom of at least six and one-half feet, including working, living, eating, cooking, sleeping, stair, hall, service, and storage areas, but excluding garages, carports, parking spaces, cellars, half-stories, and unfinished attics and basements.

(7) The housing development project on the lot proposed to be subdivided complies with any local inclusionary housing ordinances adopted by the local agency.

(8) The development of a housing development project on the lot proposed to be subdivided does not require the demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of low, very low, or extremely low income.

(B) Housing that is subject to any form of rent or price control through a local public entity's valid exercise of its police power.

(C) Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.

(D) A parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(9) The lot proposed to be subdivided is not located on a site that is any of the following:

(A) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to former Section 25356 of the Health and Safety Code, unless either of the following applies:

(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.

(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the housing development project complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) Within a special flood hazard area subject to inundation by the 1-percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this paragraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit

requirement, standard, or action adopted by that local government that is applicable to that site. A housing development project may be located on a site described in this subparagraph if either of the following is met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the housing development project has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(H) Land identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or another adopted natural resource protection plan.

(I) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(J) Land under conservation easement.

(10) The proposed subdivision conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(11) The proposed subdivision complies with all applicable standards established pursuant to Section 65852.28.

(12) Any parcels proposed to be created pursuant to this section will be served by a public water system and a municipal sewer system.

(13) The proposed subdivision will not result in any existing dwelling unit being alienable separate from the title to any other existing dwelling unit on the lot.

(b) A housing development project on a proposed site to be subdivided pursuant to this section is not required to comply with either of the following requirements:

(1) A minimum requirement on the size, width, depth, frontage, or dimensions of an individual parcel created by the housing development project beyond the minimum parcel size specified in, or established pursuant to, paragraph (3) of subdivision (a).

(2) (A) The formation of a homeowners' association, except as required by the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(B) Subparagraph (A) shall not be construed to prohibit a local agency from requiring a mechanism for the maintenance of common space within the subdivision, including, but not limited to, a road maintenance agreement.

(c) A local agency shall approve or deny an application for a parcel map or a tentative map for a housing development project submitted to a local agency pursuant to this section within 60 days from the date the local agency receives a completed application. If the local agency does not approve or deny a completed application within 60 days, the application shall be deemed approved. If the local agency denies the application, the local agency shall, within 60 days from the date the local agency receives the completed application, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

(d) Any housing development project constructed on the lot proposed to be subdivided pursuant to this section shall comply with all applicable objective zoning standards, objective subdivision standards, and objective design standards as established by the local agency that are not inconsistent with this section and paragraph (2) of subdivision (a) of Section 65852.28.

(e) (1) (A) Except as provided in paragraph (2), no person shall sell, lease, or finance any parcel or parcels of real property resulting from a subdivision under this section separately from any other such parcel or parcels, unless each parcel that is sold, leased, or

financed meets one of the following criteria:

(i) The parcel contains a residential structure completed in compliance with all applicable provisions of the California Building Standards Code that includes at least one dwelling unit.

(ii) The parcel already contains an existing legally permitted residential structure.

(iii) The parcel is reserved for internal circulation, open space, or common area.

(iv) The parcel is the only remaining parcel within the subdivision that is not developed with a residential structure that was completed in compliance with all applicable provisions of the California Building Standards Code.

(B) For purposes of this subdivision, "parcel or parcels of real property resulting from a subdivision under this section" shall not include any designated remainder parcel described in subparagraph (B) of paragraph (1) of subdivision (a).

(C) Violation of this paragraph shall constitute the sale of real property that has been divided in violation of the provisions of this division and shall be subject to the penalties and remedies set forth in Chapter 7 (commencing with Section 66499.30).

(2) A local agency may, by ordinance or map condition, authorize the sale, lease, or finance of any parcel or parcels of real property resulting from a subdivision under this section without compliance with the provisions of paragraph (1).

(f) A local agency may deny the issuance of a parcel map, a tentative map, or a final map if it makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(g) Notwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1, a local agency is not required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels created through the exercise of the authority contained within this section. If a local agency chooses to permit accessory dwelling units or junior accessory dwelling units, the units shall not count as residential units for the purposes of paragraph (1) of subdivision (a).

(h) (1) Notwithstanding Section 66411.7, a local agency is not required to permit an urban lot split on a parcel created through the exercise of the authority contained within this section.

(2) Notwithstanding Sections 65852.21 and 66411.7, those sections shall not apply to a site that meets both of the following requirements:

(A) The site is located within a single-family residential horsekeeping zone designated in a master plan, adopted before January 1, 1994, that regulates land zoned single-family horsekeeping, commercial, commercial-recreational, and existing industrial within the plan area.

(B) The applicable local government has an adopted housing element that is compliant with applicable law.

(i) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(Amended (as amended by Stats. 2024, Ch. 294, Sec. 3) by Stats. 2025, Ch. 22, Sec. 28. (AB 130) Effective June 30, 2025.)