



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-430 Housing development: Camp Fire Housing Assistance Act of 2019. (2019-2020)

SHARE THIS:  

Date Published: 10/14/2019 09:00 PM

Assembly Bill No. 430

CHAPTER 745

An act to add and repeal Section 65913.15 of the Government Code, relating to housing.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 430, Gallagher. Housing development: Camp Fire Housing Assistance Act of 2019.

Existing law authorizes a development proponent to submit an application for a development permit that is subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies specified objective planning standards, including that the development is a multifamily housing development that contains 2 or more residential units.

This bill would authorize a development proponent to submit an application for a residential development, or mixed-use development that includes residential units with a specified percentage of space designated for residential use, within the territorial boundaries or a specialized residential planning area identified in the general plan of, and adjacent to existing urban development within, specified cities that is subject to a similar streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies specified objective planning standards. The bill would require a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of those objective standards by a specified time; otherwise, the development is deemed to comply with those standards. The bill would provide that if a local government approves a project pursuant to that process, that approval will not expire if that project includes investment in housing affordability, and would otherwise provide that the approval of a project expires automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would prohibit a city from imposing any automobile parking standards on a development subject to these provisions if the development is located within $\frac{1}{2}$ mile of a high-quality bus corridor, as defined, or major transit stop, as defined. The bill would provide that approval pursuant to its provisions would remain valid for 3 years and remain valid thereafter so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would require a local government to file a notice of any approval of a development under these provisions with the Office of Planning and Research. The bill would prohibit a local government from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions, except as provided. The bill would repeal these provisions as of January 1, 2026.

This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all of the specified cities, including charter cities.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA

also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

By establishing a streamlined, ministerial approval process for certain housing developments, this bill would expand the exemption for the ministerial approval of projects under CEQA.

This bill would make legislative findings and declarations as to the necessity of a special statute for the cities specified in the bill.

By imposing new duties on specified local agencies with respect to the streamlined, ministerial approval process described above, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Camp Fire Housing Assistance Act of 2019.

SEC. 2. The Legislature finds and declares all of the following:

(a) The Camp Fire, which started on November 8, 2018, in the County of Butte, is the deadliest and most destructive wildfire in California.

(b) The fire displaced over 50,000 people and the surrounding areas do not have sufficient capacity to absorb this population.

(c) To provide timely housing relief for the area, it is necessary to streamline the building process within specified cities in the impacted region.

SEC. 3. Section 65913.15 is added to the Government Code, to read:

65913.15. (a) Notwithstanding Section 65913.4, a development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and is not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is located within the territorial boundaries or a specialized residential planning area identified in the general plan of, and adjacent to existing urban development within, any of the following:

(A) The City of Biggs.

(B) The City of Corning.

(C) The City of Gridley.

(D) The City of Live Oak.

(E) The City of Orland.

(F) The City of Oroville.

(G) The City of Willows.

(H) The City of Yuba City.

(2) The development is either a residential development or a mixed-use development that includes residential units with at least two-thirds of the square footage of the development designated for residential use, not including any land that may be devoted to open-space or mitigation requirements.

(3) The development proponent has held at least one public meeting on the proposed development before submitting an application pursuant to this subdivision.

(4) The development has a minimum density of at least four units per acre.

(5) The development is located on a site that meets both of the following requirements:

(A) The site is no more than 50 acres.

(B) The site is zoned for residential use or residential mixed-use development.

(6) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section.

(7) The development will achieve sustainability standards sufficient to receive a gold certification under the United States Green Building Council's Leadership in Energy and Environmental Design for Homes rating system or, in the case of a mixed-use development, the Neighborhood Development or the New Construction rating system, or the comparable rating under the GreenPoint rating system or voluntary tier under the California Green Building Code (Part 11 (commencing with Section 101) of Title 24 of the California Code of Regulations).

(8) The development 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 that is protected pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), 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 Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site 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 development 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 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. A development may be located on a site described in this subparagraph if either of the following are 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 government.

(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.

(H) Lands identified for conservation in an adopted natural community conservation plan adopted on or before January 1, 2019, 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 other 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 any of the following:

(i) The federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(ii) The California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(iii) The Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(J) Lands under conservation easement.

(9) The development does not require the demolition of a historic structure that was placed on a national, state, or local historic register.

(10) The development shall not be upon an existing parcel of land or site that is governed under any of the following:

(A) The Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

(B) The Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code).

(C) The Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code).

(D) The Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(11) (A) If the development would require the demolition of any affordable housing units, the development shall replace those units by providing at least the same number of units of equivalent size to be made available at affordable housing cost to, and occupied by, persons and families in the same income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income households occupied the units in the same proportion of lower income households to all households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded to the next whole number.

(B) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent commission responsible for review and approval of development projects or the city council, as appropriate. That design review or public 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 published and adopted by ordinance or resolution by a local government before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(d) Notwithstanding any other law, a city, whether or not it has adopted an ordinance governing automobile parking requirements for multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section if the development is located within one-half mile from a high-quality bus corridor or major transit stop.

(e) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability and 50 percent of the units are affordable to households making below 80 percent of the area median income. For purposes of this paragraph, "public investment in housing affordability" does not include tax credits.

(2) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years, except that a project may receive a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

(4) If a local government approves a development pursuant to this section, the local government shall file a notice of that approval with the Office of Planning and Research.

(f) (1) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(2) Notwithstanding paragraph (1), if the local government has adopted a local ordinance that requires that a specified percentage of the units of a housing development project be dedicated to households making below 80 percent of the area median income, that local ordinance applies.

(g) This section does not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing" means housing available at affordable housing cost, and occupied by, persons and families of low or moderate income as defined by Section 50093 of the Health and Safety Code, lower income households as defined by Section 50079.5 of the Health and Safety Code, very low income households as defined by Section 50105 of the Health and Safety Code, and extremely low income households as defined by Section 50106 of the Health and Safety Code, for a period of 55 years for rental housing and 45 years for owner-occupied housing.

(2) "Affordable housing cost" has the same meaning as "affordable housing cost" described in Section 50052.5 of the Health and Safety Code.

(3) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.

(4) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(5) "High-quality bus corridor" means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

(6) "Local government" means a city or a county, including a charter city or a charter county, that has jurisdiction over a development for which a development proponent submits an application pursuant to this section.

(7) "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less

during the morning and afternoon peak commute periods. "Major transit stop" shall also include major transit stops included in a regional transportation plan adopted pursuant to Chapter 2.5 (commencing with Section 65080).

(8) (A) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a local government, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to subparagraph (B).

(B) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is consistent with the allowable residential density within that land use designation, notwithstanding any specified unit allocation.

(i) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that, for the reasons stated in Section 2 of this act, Section 3 of this act adding Section 65913.15 to the Government Code addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 3 of this act adding Section 65913.15 to the Government Code applies to all cities specified in that section, including charter cities.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the findings and declarations set forth in Section 2 of this act.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.