



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

AB-803 Starter Home Revitalization Act of 2021. (2021-2022)

SHARE THIS:  

Date Published: 08/31/2021 09:00 PM

Assembly Bill No. 803

CHAPTER 154

An act to add Chapter 8 (commencing with Section 66499.40) to Division 2 of Title 7 of the Government Code, relating to land use.

[Approved by Governor August 31, 2021. Filed with Secretary of State August 31, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 803, Boerner Horvath. Starter Home Revitalization Act of 2021.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would authorize a development proponent to submit an application for the construction of a small home lot development, as defined, that meets specified criteria. The bill would require a small home lot development to be located on a parcel that is no larger than 5 acres, is substantially surrounded by qualified urban uses, as defined, and is zoned for multifamily residential use. The bill would require a small home lot development to meet a minimum unit requirement and to consist of single-family housing units with an average total area of floorspace of 1,750 net habitable square feet or less. The bill would require that the units comply with external existing height and setback requirements applicable to the multifamily site. The bill would require that the small home lot development comply with any local inclusionary housing ordinance. The bill would prohibit the small home development on the proposed site from being subdivided if the development would require the demolition or alteration of specified types of housing, and would prohibit a small home development on a site identified in the jurisdiction's housing element to accommodate that jurisdiction's regional housing need for low-income or very low income households.

This bill would prohibit a local agency from imposing specified requirements on a small home lot development created pursuant to these provisions, including setback requirements between units within the small home lot development, requirements on the minimum size of each small home lot development, and specified parking requirements. The bill would require a city, county, or city and county to approve an application for a small home lot development unless it makes a specified finding.

(2) The bill would make findings that ensuring access to affordable housing is a matter of statewide concern rather than a municipal affair and, therefore, specify that the bill applies to all cities, including a charter city and a charter city and county.

(3) By imposing requirements on local agencies relative to the development of small home lot developments, the bill imposes 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Since 1970, California has been experiencing an extended and increasingly serious housing shortage. In 2018, California had the 49th lowest ratio of housing units per resident, with the shortage estimated at 3,000,000 to 4,000,000 housing units.

(b) Households with lower incomes are especially likely to experience unaffordable housing costs. In 2015, more than 8 in 10 low-income households with incomes of less than 200 percent of the federal poverty line were housing cost burdened, and more than 50 percent of low-income households spent at least one-half of their income on housing.

(c) Because of the challenges of housing affordability throughout the state, in particular for renters, households with lower incomes, and people of color, California needs to implement strategies that increase affordability.

(d) Policies that incentivize housing that is smaller and "affordable by design" with fewer administrative hurdles, but respect site setbacks and height restrictions where applicable, may receive more acceptance, as they can be more compatible with the existing surrounding single-family neighborhoods.

(e) Evidence has demonstrated that while for-rent housing is a great option for increasing supply, fee simple for-sale smaller homes help to increase home ownership and make communities more resilient.

(f) Due to minimum lot sizes, current multifamily residential zoning limits the creation of fee simple zero lot line detached homes in areas that allow higher densities. By retaining the allowable density and base zoning and eliminating minimum lot sizes, new and strategic opportunities emerge to create small homes that are affordable by design and are better suited for fine grain development of existing urbanized residential neighborhoods.

SEC. 2. Chapter 8 (commencing with Section 66499.40) is added to Division 2 of Title 7 of the Government Code, to read:

CHAPTER 8. The Starter Home Revitalization Act of 2021

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.

SEC. 3. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, the changes made by this act applies to all cities, including a charter city or a charter city and county.

SEC. 4. 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.