

Attachment 3. State Legislation Enacted in 2022 That Prompted Revisions to the Zoning Code Update

Since the release of the draft zoning code update in February 2022, the State Legislature has enacted a series of laws related to residential development. The following is a list of those bills, and how the Zoning Code Update has been modified to respond to the bills.

AB 916 – Interior Reconfigurations

Under AB 916, local jurisdictions cannot require a public hearing for interior reconfigurations of bedrooms within an existing residential structure, provided that the resulting reconfiguration results in no more than two additional bedrooms and that the reconfiguration does not expand the building envelope. This change has been added to the Architectural Review Section of the code as a permit approval not requiring a public hearing (Code Section 18.120.030, Minor changes by Director).

AB 2011 – Housing and High Road Jobs Act SB 6 – Middle Class Housing Act

AB 2011 and SB 6 are intended to permit residential development at a minimum density of 30 du/ac on sites currently zoned and designated for commercial or retail uses. Both bills were signed into law by Governor Gavin Newsom on September 29, 2022 and went into effect on July 1, 2023.

AB 2011 creates a CEQA-exempt, ministerial approval process for multifamily housing developments on sites within a zone where office, retail or parking are the principally permitted use. The law provides for slightly different qualifying criteria depending upon whether the project is (1) for 100-percent affordable projects or (2) for mixed-income projects located in "commercial corridors." AB 2011 projects must pay prevailing wages to construction workers, among other labor standards.

Under SB 6, project approvals remain discretionary and subject to the California Environmental Quality Act. Projects would be subject to the objective standards of the Architectural Review process with development permits issued at a Development Review Hearing. SB 6 projects would be subject to prevailing wage requirements and require a skilled and trained workforce.

Notably, SB 6 does not require that any of the units in the proposed housing project be affordable, except to satisfy the City's inclusionary housing requirement.

Residential uses have been added to Table 2-5, the commercial districts use table, and additional regulatory language mirroring AB 2011 and SB 6 has been added to Section 18.12.040 of the Zoning Code.

SB 897 – Maximum ADU heights

Previously under state law, local jurisdictions were required to allow ADUs to be at least one story and 16 feet in height.

This change to state law requires that the lowest height limitation that may be imposed by a local agency on an accessory dwelling unit is 18 feet if the accessory dwelling unit is within $\frac{1}{2}$ mile walking distance of a major transit stop or a high-quality transit corridor, or if the

accessory dwelling unit is detached and on a lot that has an existing multifamily, multistory dwelling. The change also increases the lowest maximum height limit that may be imposed by the City on an accessory dwelling unit to 25 feet if the accessory dwelling unit is attached to a primary dwelling. The City is proposing a 1 ½ -story, 25' height limit for detached ADUs and a 2-story, 25' height limit for attached ADUs. Those changes are reflected in Section 18.60.030, ADUs, of the Zoning Code Update.

AB 2221 – ADU Procedures

This change to state law specifies that an accessory dwelling unit that is detached from the proposed or existing primary dwelling may include a detached garage.

The change also requires cities to waive the requirement for a front setback if the required setback would prevent a property owner from building an ADU of at least 800 square feet in size.

If the City denies an application for an accessory dwelling unit or junior accessory dwelling unit, the City is required to 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 application can be remedied by the applicant within 30 days of the denial.

AB 2334 – Density Bonus standards

This change to state law gives new direction where the density allowed in the zoning ordinance is inconsistent with that allowed in the land use element of the general plan or specific plan. Under the adopted change to state law, the greater density prevails. Relevant language has been added to Chapter 18.02 of Article 1 of the Zoning Code, Purpose and Applicability of the Zoning Code.

This bill would also prohibit the imposition of any vehicular parking standards if a development is for a project for seniors 55-and-up. (Previously, this only applied to 62-and-up developments.) The provisions for parking relief have been added to Section 18.64, Density Bonus of the proposed Zoning Code update.

AB 1551 – Density Bonuses for Mixed Use

This change to state law requires cities to grant a commercial developer a development bonus, when an applicant for approval of a commercial development had entered into an agreement for partnered housing with an affordable housing developer to contribute affordable housing through a joint project or two separate projects encompassing affordable housing. Development bonuses available to commercial developers include a 20% increase in the overall height of a project, a 20% increase in the maximum allowed FAR, a 20% increase in the maximum height of a project or a 20% reduction in the required parking for a commercial project. These provisions have been added as a new code section (18.64.130) as a part of the Density Bonus provisions.

AB 682 – Density Bonuses for Shared Housing

This change to state law allows shared housing projects to be eligible for density bonuses. Under this new law, a “shared housing unit” is one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave. A “shared housing building” is a structure with five or more shared housing units and one or more common kitchens and dining areas. The term “shared housing” is now defined in Article 8 of the Zoning

Code, and shared housing is now included as an eligible type of development in the Density Bonus Chapter of the Code (Chapter 18.64).

The change to state law also prohibits cities from requiring any minimum unit size requirements or minimum bedroom requirements in conflict with the bill's provisions with respect to a shared housing building eligible for a density bonus.

AB 2097 – No Parking near Transit

This change to state law prohibits public agencies from imposing any minimum automobile parking requirement on any residential, commercial, or other development project that is located within $\frac{1}{2}$ mile of public transit, unless the City makes written findings that not imposing parking requirements would have a substantially negative impact on the city's ability to meet its share of specified housing needs.

AB 2339 – Emergency Shelters

Existing law requires local governments to plan for emergency shelters in their housing elements. AB 2339 provides that the sites identified for emergency shelters must be in residential areas or otherwise suitable zones, thus prohibiting local governments from situating shelters in industrial zones or other areas disconnected from services. The law also seeks to ease constraints on the development of emergency shelters by requiring that any development standards applied to emergency shelters be objective.

Under the current zoning code, emergency shelters are a permitted use in the ML Light Industrial zoning district, provided that the city has fewer beds than homeless residents during the most recent homeless count of people residing within the city. Additional emergency shelters beyond the number needed as indicated by the most recent homeless census can be allowed subject to a Conditional Use Permit.

Under the proposed zoning code update, emergency shelters are a permitted use in the R3, R4, and R5 residential zoning districts, along with the C-C Community Commercial and C-R Regional Commercial districts and the MU-VHD mixed use district. Emergency shelters are also allowed in the LI Light Industrial zoning district subject to the approval of a Conditional Use Permit approved by the Planning Commission.

The standards applicable to Emergency Shelters have been reworked to include only objective standards, per the changes required by AB 2339.