



# COUNTY OF SANTA CRUZ

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## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

**KATHLEEN MOLLOY, PLANNING DIRECTOR**

## **RECENT CHANGES IN HOUSING REGULATIONS**

The following summary of recent changes in housing law and environmental guidelines is provided to assist property owners on the potential for residential development on parcels within the Santa Cruz County's unincorporated areas. State law and County regulations are subject to amendment—applicants should confirm with the County Planning Department on current status and applicability to parcels. This document is provided for informational purposes only and shall not constitute a formal interpretation of State law, County Code or any other law, or legal advice for any purpose whatsoever. Applicants are encouraged to seek their own legal advice.

### **Updated Santa Cruz County Policies and Regulations**

#### **Enhanced Density Bonus**

On December 4, 2018, the Board of Supervisors approved Ordinance 5286, which contained County Code amendments to support creation of affordable housing, including an enhanced density. The Coastal Commission certified the amendments on April 9, 2019. The enhanced density bonus option provides a density bonus of up to 50% for qualified mixed-income projects; and up to 75% for housing projects that are 100% affordable. The enhanced density bonus exceeds the current standard 35% bonus provided in State law; however, the State law allows localities to grant greater bonuses if allowed by local ordinance. Current State density bonus law and County Code allow developers applying for a density bonus to request a waiver of any development standard, regulation, or other local policy that would physically preclude development of the project with its proposed percentage of affordable units. In addition, projects qualifying for a density bonus may also use the parking standards in State law rather than the County's local parking standards, which tend to be higher; and may qualify for up to three "concessions" as defined in State law. Concessions may include greater flexibility under development standards, such as a reduced setback or height limit, or other concessions as described in Chapter 17.12, the County's Density Bonus codes.

#### **R-Combining Zone District**

Ordinance 5286 also modified the process related to the County's Regional Housing Need R-Combining residential zone district, which allows for residential development up to 20 dwelling units per acre by right. Proposals to add the R-Combining Zone to a property may now be initiated by a property owner or by an applicant with the property owner's consent. The R-Combining overlay may be combined with the following underlying zone districts: RM-2 (Multifamily Residential), C-1 (Neighborhood Commercial), C-2 (Community Commercial), PA (Professional and Administrative Offices), or PF (Public and Community Facilities). The ordinance also removed a reference to the previous requirement in SCCC 13.01.060 that General Plan amendments changing the designation of properties from commercial to residential be accompanied by 40% affordable housing.

## CEQA Checklist/Initial Studies

The County has amended its CEQA Initial Study template to reflect the transition to VMT as the CEQA metric for transportation impacts. While LOS impacts to local roadway segments and intersections may still require mitigation under the County's General Plan provisions, developments located within urban areas may benefit from the transition to VMT as impacts to local roadways and intersections can no longer be found as significant under CEQA.

## **State of California**

### Housing Laws

The following new initiatives were passed by the State legislature to encourage and streamline the development of new housing projects at potentially higher densities in order to address the State's housing crisis.

### **Bills Primarily of Interest to Developers and/or Affordable Housing Providers**

AB 2372: Density Bonus - Floor Area Ratio Bonus -- Authorizes jurisdictions to establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio bonus, calculated as provided, in lieu of a density bonus awarded on the basis of dwelling units per acre. Prohibits jurisdictions from imposing any parking requirement on an eligible housing development in excess of specified ratios. Requires a jurisdiction that adopts a floor area ratio bonus ordinance to calculate impact fees based on square feet, instead of on a per unit basis. Authorizes an applicant for a floor area ratio bonus to submit a proposal for specified additional incentives or concessions. Passed September 29, 2018.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB2372](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2372)

AB 2753: Density Bonus Application – Requires the permitting jurisdiction with a density bonus program for affordable housing to provide a determination as to the amount of the density bonus, any parking ratios requested, other incentives or concessions, when the application is deemed to be complete. The jurisdiction is required to adjust the amount of density bonus and parking ratios awarded based on any changes to the project during the course of development. Passed September 29, 2018.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB2753](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2753)

AB 2797: Density Bonus Application within the Coastal Zone – Requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law be permitted in a manner that is consistent with that law and the California Coastal Act of 1976. Clarifies that a project cannot be found inconsistent with the Coastal Act merely because it receives a density increase under state law. Passed September 29, 2018.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB2797](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2797)

SB 35: Streamlined Ministerial Approval Process – Requires the availability of a streamlined, ministerial approval process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need. Proposals must be located in urbanized areas as designated by the U.S. Census Bureau, be surrounded by at least 75 percent urban uses, propose at least two-thirds of the square footage with residential uses, and subject to inclusion of affordable units meeting specified conditions. The project cannot be located in the coastal zone, on farmland of statewide importance, within wetlands, within very high hazard severity zones, on hazardous waste sites, conservation lands, habitat for protected species, or mobile home parks. The project cannot result in the demolition of affordable

housing, housing occupied by tenants within the past 10 years, an historical structure listed on State, federal, or local registers. Subject to other requirements. Passed September 29, 2018.

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB35](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB35)

AB 2162: Supportive Housing – Requires that supportive housing (housing with services for homeless and people with disabilities) be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development meets specified criteria. Requires a local government to approve, within specified periods, a supportive housing development that complies with these requirements. The developer of supportive housing must provide the planning agency with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project and describing those services, as provided. Prohibits jurisdictions from imposing minimum parking requirement for units occupied by supportive housing residents if the development is located within ½ mile of a public transit stop. Does not preclude or limit the ability of a developer to seek a density bonus from jurisdictions. Expands the exemption for the ministerial approval of projects under CEQA. Passed September 26, 2018.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB2162](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2162)

SB 166: Housing Inventory – Prohibits a jurisdiction from permitting or causing its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households. Where the approval of a development project results in fewer units by income category than identified in the housing element for that parcel and the remaining sites in the housing element are not adequate to accommodate the jurisdiction’s share of the regional housing need by income level, requires the jurisdiction within 180 days to identify and make available additional adequate sites. Passed September 29, 2017.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB166&search\\_keyword=s=density](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB166&search_keyword=s=density)

SB 765: Planning and Zoning: Housing – Makes several technical changes to a 2017 law that implemented a streamlined ministerial approval process for a developer of a multifamily housing development project, in communities which identified a housing shortage, under certain conditions. Addresses requirements relating to when a qualifying development is subject to a minimum percentage of below market rate housing, the timing of the recording of affordability covenants, the applicability of objective subdivision standards, CEQA streamlining, and parking standards. Passed September 27, 2018.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB765](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB765)

SB 1227: Density Bonuses for Student Housing – Requires a density bonus to be provided to a developer for a housing development in which all units in the development will be used for students enrolled full-time at an accredited institution of higher education. The developer must enter into an agreement with an institution of higher education to that effect, where 20% of the units are used for lower-income students. Requires that these units be subject to a recorded affordability restriction of 55 years and sets the density bonus at 35% of the number of these units. Passed September 29, 2018.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB1227](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1227)

#### California Environmental Quality Act (Housing Related):

AB 1804: California Environmental Quality Act (CEQA) Exemption for Residential or Mixed-Use Housing Projects – Expands the categorical infill exemption of CEQA that has been applied to development projects in our cities, to residential or mixed-use housing projects in unincorporated areas of counties, if the project meets certain requirements. The measure requires a lead agency to file a notice of exemption with the Office of Planning and Research and with the county clerk of the county where the project is located. A project that is categorically exempt under CEQA may not qualify for an exemption

if it falls within a CEQA exception to the exemption. This provision remains in effect until Jan. 1, 2025. Passed September 22, 2018.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB1804](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1804)

AB 2341: CEQA: Aesthetic Impacts – Provides that aesthetic effects need not be evaluated and may not be considered significant effects on the environment under CEQA for housing projects involving the refurbishment, conversion, repurposing or replacement of an existing building that meets certain requirements. The bill does not apply to projects involving potentially significant aesthetic effects to scenic highways or to projects with potentially significant aesthetic effects to historical or cultural resources. This provision remains in effect until Jan. 1, 2024. Passed September 7, 2018.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB2341](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2341)

AB 2782: CEQA Impacts -- Authorizes lead agencies, in describing and evaluating projects, to consider specific economic, legal, social, technological, or other benefits of, and the negative impacts of denying, the project. Passed August 24, 2018.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB2782](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2782)

CEQA Guidelines: After the passage of several legislative bills over recent years promoting the reduction of greenhouse gas emissions, the Governor's Office of Planning and Research developed updated guidelines for implementing CEQA. The new guidelines replace level of service (LOS) with vehicle miles traveled (VMT) as the metric for analyzing transportation impacts of projects. For many projects in the County, this change may mean the difference between an Environmental Impact Report and a Mitigated Negative Declaration, a significant savings in time. In effect December 28, 2018.

<https://www.califaep.org/images/ceqa/statute-guidelines/2019/2019-CEQA-book-final.pdf>