

## **Housing Laws 101**

**SB-35** was signed into State law in 2017 and became effective on January 1, 2018. SB-35 applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI). Currently, Gilroy meets its RHNA goal for construction of above-moderate income and low-income housing. However, the City has not yet met the RHNA goal for moderate and very-low income housing. Therefore, projects in Gilroy are eligible for a ministerial approval process, provided they meet all of the SB35 eligibility criteria, including setting aside at least 50% of the total units as affordable housing for lower-income households (max 80% AMI).

**AB 831**, an "urgency statute" that took effect Sept. 28, 2020 upon being signed into law, makes a number of amendments to **SB35**. This amendment prohibits cities from using post-entitlement review processes to avoid the intent of SB 35, given that housing developments inevitably evolve after an entitlement permit is issued. This bill allows specified minor modifications to the development prior to the issuance of the final building permit, so long as the project continues to meet specified objective standards that were in place when the original application was submitted. The bill also provides that required off-site public improvements should be approved without delay and in a manner that does not inhibit, chill or preclude the development.

The **Permit Streamlining Act** is a State law that requires the City to compile an application submittal checklist that specifies in detail the information that will be required from an applicant for a development project. Pursuant to this Act, the City has a maximum of 30 days to provide the applicant with a list and a thorough description of the specific information needed to complete the application. Once an application is complete, this Act also requires the City to approve or disapprove a development project within certain timeframes, depending on the type of CEQA review needed.

The **Housing Accountability Act (HAA)** is a State law that is applicable to both affordable and market rate housing development projects, including emergency shelters, farmworker housing, transitional housing, and supportive housing. The HAA prohibits the City from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project that is consistent with objective local development standards, unless the City makes specified written findings based upon a preponderance of the evidence that a specific, adverse health or safety impact exists. In other words, the City cannot deny a housing development project based on subjective reasoning.

**SB 330 (Housing Crisis Act of 2019)** amended the Housing Accountability Act to require, with certain exceptions, that a housing development project only be subject to the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted.

**AB 2345 (amendments to State Density Bonus Law)** increases the maximum density bonus to up to 50%; lowers the minimum affordable unit threshold for granting incentives/concessions; allows 20% of the units in a 100% affordable development to be moderate-income units (the other 80% must be low-income); and requires the General Plan annual report to include density bonus information. This legislative update also decreases the maximum parking ratio to 1.5 spaces for 2-3 bedrooms units; authorizes a developer to request a total waiver of parking for senior housing projects that meet certain criteria; and clarifies how to measure half-mile of a major transit stop (for purposes of qualifying for additional benefits (e.g., parking reductions) and defines the term "natural or constructed impediments" for purposes of determining whether a development has unobstructed access to a transit stop. Furthermore, the city shall not impose any maximum controls on density if the housing development is located within one-half mile of a major transit stop.

**AB 1851** makes it easier for faith-based organizations to build affordable housing on their parking lots. This legislation reduces/eliminates parking requirements that would otherwise preclude such development and prevent cities from forcing faith-based organizations to later make up lost parking spaces when a parking lot is developed for housing.

**AB 3182 (Limit HOA's Ability to Restrict Home Rentals, including ADUs)** prohibits HOAs from adopting or enforcing rental restrictions on more than 25% of the individual dwelling units in a development. AB 3182 also makes clear that accessory dwelling units (ADUs) and junior ADUs (JADUs) are not counted toward the overall 25% cap. However, HOAs can still enforce bans on short-term rentals for fewer than 30 days. AB 3182 also clarifies state ADU law to specify that an ADU application shall be deemed approved if the City has not acted upon a completed ADU application within 60 days.

**AB 725 (Moderate- and Above-Moderate-Income Housing Sites)** imposes new requirements for city housing element updates. Under state law, housing elements must include, among other things, a residential land inventory that can be used to identify potential housing development sites. Commencing January 1, 2022, this law requires that at least 25% of a metropolitan jurisdiction's RHNA share of moderate-income and above moderate-income housing be allocated to sites with zoning that allows at least 4 units of housing, but no more than 100 units per acre of housing.

**AB 1561 (Housing Entitlement Extension)** extends the expiration of a housing entitlement by 18 months, if it was in effect on and issued before March 4, 2020, and would have expired before Dec. 31, 2021. This legislation affects tentative maps, discretionary permits, and ministerial approvals / building permits. It explicitly excludes development agreements, a preliminary application under SB 330, and SB35 permit applications. This bill also extends the time for Native American tribes to respond to a CEQA consultation request by 30 days for any housing development application deemed complete between March 4, 2020, and Dec. 31, 2021.