

## Senate Bill 330 – the Housing Crisis Act of 2019

This following is an overview of Senate Bill 330, the Housing Crisis Act of 2019 (SB 330) as introduced on February 19, 2019. A copy of the legislation and information on its status is available [here](#).

SB 330 would declare a statewide housing emergency to be in effect until January 1, 2030. During that period, cities and counties found to have high rents and low rental vacancy rates would:

- Be prohibited from reducing housing densities, increasing development fees, or taking a range of other actions affecting housing development (both for-sale and rental);
- Have any such actions taken since January 1, 2018 declared null and void;
- Be prohibited from imposing fees on new units that are deed restricted for families earning less than 80% of the area median income;
- Be prohibited from enforcing requirements that new developments include parking;
- Be required to process housing development applications under the general plan and zoning ordinance in effect at the time the application is deemed complete.

Other provisions of SB 330 would apply to all jurisdictions not only those with high rents and low vacancy rates. These include requiring cities and counties to process housing development applications under the general plan and zoning ordinance in effect at the time the application is deemed complete, a ban on holding more than three de novo public hearings on a project, and a requirement that cities and counties post all development standards online. The bill would also call for the State Department of Housing and Community Development to update building standards for “occupied substandard buildings.”

A more detailed summary of SB 330 is provided below.

### **I. Limits on “Affected” Cities and Counties**

Most of SB 330’s provisions apply only to an “affected county or city.” The bill defines “affected county or city” as “a county or city, including a charter city, for which the Department of Housing and Community Development determines, in any calendar year, that both of the following conditions apply:

- “The average rate of rent is [ ] percent higher than the fair market rent for the state, for the year.”
- “The vacancy rate for residential rental units is less than [ ] percent.”

As introduced, the bill does not identify the threshold percentages to be considered an affected or city and does not indicate how the Department of Housing and Community Development will determine the “fair market rent for the state” and the vacancy rate in each jurisdiction.

“Affected” cities and counties would be subject to the following constraints on exercising their land use authority until January 1, 2030.

**A. Prohibitions on Legislation Limiting Residential Development**

For areas where housing is an allowable use, SB 330 will prohibit the legislative body or voters of an affected county or city from amending a General Plan or zoning ordinance in a manner that would:

- change the zoning or General Plan designation to a less intensive use (e.g., reductions to height, density, or floor area ratio or increases in open space or lot size requirements) or reduce the intensity of land use within an existing zoning district or plan designation below what was previously allowed on January 1, 2018.
- impose a moratorium on housing development, except pursuant to a zoning ordinance that protects against an imminent threat to the health and safety and is approved by the Department of Housing and Community Development.
- impose design standards that are more costly than those in effect on January 1, 2018.
- establish a maximum number of conditional use or other discretionary permits for the development of housing or impose a cap on the number of housing units or the population.

In addition, any amendment on or after January 1, 2018 that had any of the effects noted above would be deemed void.

The bill expressly allows General Plan and zoning amendments that would prohibit the commercial use of land that is designated for residential use. The commercial use regulation could include limits on short term occupancy of residences. Further, the bill does not prohibit the amendments that would allow greater density in or reduces the costs to a housing development project or as necessary to comply with the California Environmental Quality Act.

**B. Limits on Review of Proposed New Housing Development Projects**

SB 330 would impose limits similar to those above on local government review of proposed housing development projects. Specifically, for areas where housing is an allowable use, SB 330 will prohibit an affected county or city from:

- changing the general plan designation or zoning to a less intensive classification or reduce the intensity of land use within an existing zoning district below what was previously allowed on January 1, 2018 once an application for a permit is deemed complete.
- enforcing an existing moratorium or imposing a moratorium on housing development (including mixed use development).

- enforcing requirements that a proposed housing development include parking or imposing any new or increased parking requirements.
- charging any fee or imposing an exaction in connection with the approval of a housing development in excess of the amount of fees/exactions that would have applied to the project as of January 1, 2018.
- charging any fee in connection with approval of any affordable unit within a housing development that meets these two criteria:
  - unit is affordable for household incomes equal to or less than 80 percent of the area median income; and
  - unit is subject to a recorded affordability restriction for at least 55 years.
- enforcing or establishing a maximum number of conditional use or other discretionary permits for the development of housing or imposing or enforcing any cap on the maximum number of housing units or the population.
- Limiting the density of an approved project to level lower than that authorized by the general plan land use designation and zoning ordinances as in effect prior to January 1, 2018.

SB 330 would also provide that, in affected cities and counties, an application for a permit for a proposed housing development project will be deemed consistent and in compliance with the general plan land use designation and zoning ordinances if a reasonable person could have found that the application would have been consistent and in compliance with the general plan land use designation and zoning ordinances in effect on January 1, 2018. Moreover, if a project falls within the maximum density and intensity of use contemplated by the General Plan's land use or housing element, the project must be approved as proposed even if the zoning requires a lower density.

The foregoing limits would not apply, and a local government would not be allowed to approve a project under this part of SB 330 if the housing development would require demolition of (1) a residential rental unit assisted pursuant to Section 8; (2) a residential unit that is subject to any form of rent or price control; or (3) a residential structure containing residential dwelling units that are currently occupied by tenants, or were previously occupied by tenants if those dwelling units were withdrawn from rent or lease in accordance with the Ellis Act and subsequently offered for sale.

In addition, if a proposed housing development project would require the demolition of units that are affordable for households with incomes equal to or less than 80 percent of the area median income, an affected county or city can approve the development only if: (1) the developer agrees to provide relocation benefits and a right of first refusal for units available in the new development project; and (2) the affected county or city is not otherwise prohibited from approving the demolition of the affordable rental units under the bill.

SB 330 states that the limits in this part of the bill do not prohibit planning standards that allow greater density in or reduces the costs to a housing development project or as necessary to comply with the California Environmental Quality Act.

## **II. Provisions Applicable to All Cities and Counties**

SB330 includes provisions that would be applicable to all cities regardless of average rents and vacancy rates. These are:

### **A. Vested Rights Upon Application Completeness**

Under existing a law, a development application is evaluated under the zoning and General Plan provisions in effect at the time that the decision to approve or deny the project is made. SB 330 would provide that development applications be reviewed under the laws in effect at the time the application is deemed complete. Specifically, for applications for a conditional use permit, zoning variance, or any other discretionary permit for a housing development project that is submitted to any city or county that is not otherwise subject to the requirements for “affected” cities and counties, a city/ county would be barred from:

- enforcing or requiring the applicant for a housing development project to comply with any zoning ordinance adopted, an amendment to an existing zoning ordinance or general plan, or any other standard adopted or amendment to an existing standard after the date on which the application for that housing development project is deemed complete.
- charging any fee on the applicant for a housing development project in excess of the amount of fees or other exactions that applied to the proposed housing development project at the time the application for that housing development project is deemed complete

In addition, cities and counties would be required to determine if the site of the proposed project is a historic site at the time the application is deemed complete and this determination is to remain valid throughout the pendency of the project for which the application was filed.

### **B. Maximum Three Hearings**

SB 330 would prohibit all local governments from conducting more than three de novo hearings related to the approval of an application for a zoning variance or development permit, on an application for a zoning variance, conditional use permit, or equivalent development permit for a housing development project. Jurisdictions would be required to approve or disapprove the permit within 12 months from when the application is deemed complete.

### **C. Posting Development Application Requirements**

SB 330 would require all cities and counties to make the list of required information for applications for development projects available in writing to applicants and publicly on the city or county’s website.

### **D. New Regulations for “Occupied Substandard Building”**

Under SB 330, the Department of Housing and Community Development would be required to propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission for “occupied substandard buildings.” The proposed building standards and regulations must establish minimum health and safety standards for occupied

substandard buildings, including adequate sanitation and exit facilities and comply with seismic safety standards.

An occupied substandard building that complies with the building standards, rules, and regulations adopted pursuant to SB 330 would be deemed to be in compliance with the State Building Standards Code for a period of seven years following the date on which an enforcement agency finds that the occupied substandard building is otherwise in violation of any building standard, rule, or regulation adopted pursuant to this bill.