

2023 Land Use Legislation Summary

City of Foster City

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Bills to be Discussed

Housing Bills

SB 423 (Wiener)

AB 1633 (Ting)

SB 4 (Wiener)

SB 684 (Caballero)

AB 1490 (Lee)

AB 1218 (Lowenthal)

Planning & Zoning

AB 821 (Grayson)

Density Bonus Bills

AB 323 (Holden)

SB 713 (Padilla)

AB 1287 (Alvarez)

CEQA Bills

AB 1307 (Wicks)

SB 69 (Cortese)

AB 356 (Mathis)

SB 91 (Umberg)

SB 406 (Cortese)

AB 1449 (Alvarez)

ADU Bills

AB 671 (Ward)

AB 932 (Ting)

AB 976 (Ting)

AB 1033 (Ting)

AB 1332 (Carrillo)

Infrastructure, Services & Fees

AB 516 (Ramos)

AB 965 (J. Carrillo)

AB 1317 (W. Carrillo)

AB 1308 (Quirk-Silva)

AB 894 (Friedman)

SB 423 (Wiener): SB 35 Extension & Revamp

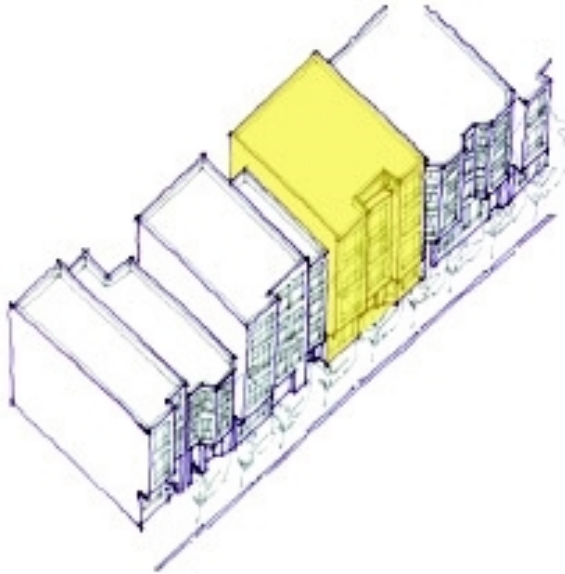
- Refresher – SB 35:
 - Streamlines project approvals; ministerial-only review
 - Applies to projects that comply with objective standards
 - Imposes affordability thresholds based on City's RHNA performance
 - Requires developers to comply with labor standards
 - Sunsets in 2026
- Creates a new pre-application public comment meeting process for projects in moderate or low resources areas or in areas of high segregation and poverty
- Removes public oversight meeting requirement to require staff level approval of projects, but allows design review board or commission meeting
- Refines environmental standards to qualify for streamlining
- Applies SB 35 in jurisdictions without a compliant Housing Element (in addition to areas that have not met their RHNA goals)
- Amends labor standards – projects above 85 ft in height full skilled and trained unless failure to receive three bids to satisfy requirement; all other projects require AB 2011 labor standards
- Extends SB 35's sunset from 2026 to 2036



AB 1633 (Ting): HAA Violations for CEQA Abuse

- Amends the Housing Accountability Act to define “disapproval” to include the failure to:
 - Find a project is exempt from CEQA when substantial evidence supports that conclusion
 - Adopt or certify environmental documents after holding a hearing when substantial evidence supports the conclusion that the EIR, MND, Addendum, or applicable document meets CEQA’s requirements
- Requires applicant to provide notice invoking AB 1633; City’s failure to act following notice gives rise to HAA cause of action
- If City approves project in good faith, limits petitioner attorney’s fees
- Sunsets on January 1, 2031

AB 1633 (Ting): continued



- Only applies to housing development projects in urban areas
- In addition, project must:
 - Meet or exceed 15 dwelling units per acre
 - Meet site criteria drawn from SB 35
 - Avoid very high fire hazard severity zones
 - Be within ½ mile walking distance to transit or within a low VMT area
 - Be proximal to identified amenities, such as a major transit station, a park, a grocery store, etc.

SB 4 (Wiener): Affordable Housing on Educational & Religious Institution Lands

- Provides ministerial streamlining (no CEQA) for affordable housing projects on educational and religious institution owned lands meeting certain criteria
- 100% of the units must be affordable to lower income households
 - Exceptions: up to 20% of the units may be affordable to moderate-income households, up to 5% of the units may be for staff of the institution that owns the land, and any manager unit(s)
- SB 4 projects must provide off-street parking of up to one space per unit, unless a state law or local ordinance provides for a lower standard of parking

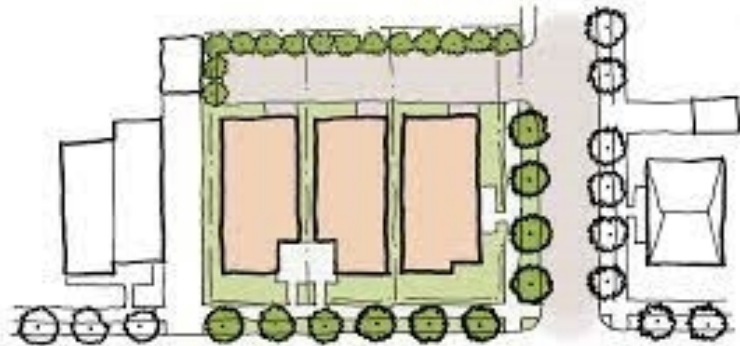


SB 4 (Wiener): continued

- The City must provide the developer with written documentation explaining any conflicts with objective standards under a specified timeframe, or the development shall be deemed to satisfy the objective standards
- Streamlined, ministerial design review is allowed
- Ancillary uses are authorized on the ground floor of the development
- Previously adopted conditions of approval apply to remaining religious/educational uses
- SB 4 projects are eligible for density bonus
- Sunsets on January 1, 2036



SB 684 (Caballero): Small Lot Subdivisions



- Applies to projects of 10 or fewer units on urban multifamily lots under 5 acres and not located in environmentally sensitive or hazard areas
- Creates ministerial subdivision process for up to 10 units on not more than 10 lots, sets minimum lot size of 600 square feet; no minimum lot width or depth regs
- Ministerial approval of the units to be built on the small lot subdivision
- Allows building permit issuance prior to recording parcel or final map
- Can't physically preclude projects meeting Mullin densities
- Limits setbacks, parking and FAR restrictions
- Requires decision in 60 days or deemed approved
- Adoption of implementing ordinance is exempt from CEQA
- Most provisions effective July 1, 2024



Other Housing Bills

- **AB 1490 (Lee):** Provides ministerial streamlining for an affordable housing project that adaptively reuses an existing building with residential units or allows temporary dwellings or occupancy
- **AB 1218 (Lowenthal):** Expands SB 330 replacement housing requirements to ALL projects where “protected units” are to be demolished or were demolished in last 5 years
 - Limited exclusions for industrial projects
 - Housing must be built prior to or concurrently with project
 - May contract with another entity to develop housing

AB 821 (Grayson): Zoning Consistency

- When a general plan is amended but zoning is inconsistent and a development application is filed, agency must amend **inconsistent zoning specific to the development project** within 180 days of application filing or process the application.
- Allows resident or property owner to sue to enforce zoning consistency with the general plan within 90 days upon
 - The enactment of any new zoning ordinance.
 - The amendment of any existing zoning ordinance.
 - The failure of a local agency to comply with this section.
- Applies to all development projects not already covered by the HAA
- GP-consistent development does not have to be rezoned or be consistent with inconsistent zoning.

Density Bonus Bills

- **AB 323 (Holden)** Limits the ability of developers to sell deed-restricted units intended for owner-occupancy to purchasers that would rent the unit unless there are no qualified owner-occupant buyers
- **SB 713 (Padilla)** Clarifies that "development standards" means those standards adopted by the local government or enacted by the local government's electorate exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the local government

AB 1287 (Alvarez): Additional Density Bonus

- If a project allocates the maximum amount of very low (15%), lower (24%), or moderate-income (44%) units, the City must grant the developer an additional density bonus if additional set asides are made for either very-low income or moderate-income units.
- Clarifies that base density for a development requesting a density bonus is the greatest allowable density in the zoning ordinance, specific plan, or the land use element of the GP.
- Can effectively double the allowable density increase on an eligible site
 - For example, if a project allocates the maximum amount of very-low income units (15%), that project will be eligible for a 50% increase in density. If the same project utilizes AB 1287 to set aside 15% of the units for moderate-income units, it would be eligible for an additional 50% bonus.
- Caps the affordable unit set aside at 50%
 - For example, if a project allocates the maximum amount of moderate-income units (44%), that project would only be eligible to set aside another 6% of very-low income or moderate-income units.
- Increases the number of concessions that may be awarded
 - Four (4) concessions for projects that set aside at least 16% very-low income units
 - Five (5) concessions for projects that set aside 100% of the units for lower-income households

AB 1287 (Alvarez): Additional Density Bonus

Traditional Density Bonus		
Category	Minimum Bonus	Maximum Bonus (50%)
Very-low income	5% Units → 20% Bonus	15% Units → 50% Bonus
Lower income	10% Units → 20% Bonus	24% Units → 50% Bonus
Moderate income	10% Units → 5% Bonus	44% Units → 50% Bonus

AB 1287: Additional Density Bonus												
Very-Low Income	Units (%)	5	6	7	8	9	10					
	Bonus (%)	20	23.75	27.5	31.25	35	38.75					
Moderate Income	Units (%)	5	6	7	8	9	10	11	12	13	14	15
	Bonus (%)	20	22.5	25	27.5	30	32.5	35	38.75	42.5	46.25	50

CEQA

- **AB 1307 (Wicks):** Amends CEQA to clarify that “for residential projects, the effect of noise generated by project occupants and their guests on human beings is not a significant effect on the environment.”
- **SB 69 (Cortese):** Requires a local agency to file a notice of determination (NOD) with the State Clearinghouse in the Office of Planning and Research (OPR), in addition to the county clerk. Authorizes a local agency to file a notice of exemption (NOE) with OPR, in addition to county clerk.
- **AB 356 (Mathis):** Extends, until Jan 1, 2029, an existing provision that waives consideration of aesthetic effects under CEQA for projects that refurbish, convert, or replace derelict buildings.
- **SB 91 (Umberg):** Eliminates a sunset date for CEQA exemptions of conversion of a motel, hotel, residential hotel, or hostel to supportive or transitional housing.
- **SB 406 (Cortese):** Establishes a CEQA exemption for actions taken by a local agency to provide financial assistance or insurance for low- and moderate-income residential housing.
- **AB 1449 (Alvarez):** Exempts from CEQA certain 100% affordable housing subject to a recorded California Tax Credit Allocation Committee regulatory agreement.

ADU Bills

- **AB 671 (Ward)** Explicitly authorizes a community land trust to use CalHome Program funds to purchase property, construct ADUs or JADUs on that property, and separately lease or convey those units
- **AB 932 (Ting)** Requires the California Housing Finance Agency to report on the Accessory Dwelling Unit Program to the Legislature
- **AB 976 (Ting)** Removes sunset on existing state law that prohibits cities and counties from adopting ordinances imposing owner-occupancy requirements on ADUs. Also clarifies that cities and counties may require that ADUs be rented for 30 days or longer, as opposed to longer than 30 days.
- **AB 1033 (Ting)** Authorizes local agencies to allow ADUs to be sold separately or conveyed from the primary residence as condominiums
- **AB 1332 (Carrillo)** Requires local agencies to develop a program for the preapproval of accessory dwelling unit plans

Infrastructure, Services & Fees

- **AB 516 (Ramos)** Imposes additional reporting and disclosure requirements on local agencies relative to Mitigation Fee Act.
- **AB 965 (J. Carrillo)** Requires batch permit processing for 2 or more broadband projects. Allows agency to set reasonable limits on number of permits that can be batched. Allows local agency to require compliance with health & safety requirements and does not preclude design review.
- **AB 1317 (W. Carrillo)** Requires property owners of new multi-family residential properties with 16+ units, with certain exceptions, to unbundle the cost of parking from the cost of the housing unit. Pilot program applies only in 10 specific counties, including Santa Clara County.
- **AB 1308 (Quirk-Silva)** Prohibits parking requirements for single-family remodels, renovations, or additions.
- **AB 894 (Friedman):** Requires a local agency to allow sharing of underutilized parking with the public, local agencies, or other entities, if those entities submit a shared parking agreement to the public agency.

QUESTIONS?

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