



# Town of Fairfax: Changes to Housing and Land Use Law 2019 Legislative Update

*Presented by*

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# Overview: Housing Legislation

1. The “Housing Crisis Act” and impacts to Town’s housing pre-application and application processes;
2. Stricter State enforcement of Town’s housing laws;
3. Changes to Density Bonus law to promote 100% affordable housing developments; and
4. Changes to how Town disposes of surplus land to bolster housing efforts.



# The “Housing Crisis Act” and impacts to Town’s housing pre-application and application processes (SB 330)

- **Overview:**

- Limits Town’s ability to regulate “housing developments,” defined as:
  - Residential units only;
  - Mixed-use developments with at least two-thirds of the square footage designated for residential use; or
  - Transitional/supportive housing.
- SB 330 makes changes to existing housing laws (the Permit Streamlining Act and Housing Accountability Act) and codifies the new “Housing Crisis Act.”
- Most of the provisions within SB 330 remain in effect only until January 1, 2025.



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# The “Housing Crisis Act” and impacts to Town’s housing pre-application and application processes (SB 330)

## New Preliminary Application Process:

- **Creates a “Freeze”**

- Existing development ordinances as those in effect when a preliminary application is submitted

- **Checklist**

- Town must have a checklist for information included in the pre application (on website)
- Cannot request anything not on checklist
- Must disclose why rejecting a pre application as incomplete



# The “Housing Crisis Act” and impacts to Town’s housing pre-application and application processes (SB 330)

- **Contents of preliminary application (includes but is not limited to):**
  - Project description;
  - Site characteristics, including existing use;
  - Certain environmental concerns;
  - Potential density bonus based on affordable units;
  - Coastal zone concerns;
  - Number of units to be demolished; and
  - Location of recorded public easements.



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# The “Housing Crisis Act” and impacts to Town’s housing pre-application and application processes (SB 330)

- **Hearing limitation**
  - No more than 5 hearings if project complied with GP and zoning objective standards when application deemed complete
  - “Hearing” includes meeting and workshops.
- **Rezoning limitation**
  - Cannot require rezoning if consistent with objective GP standards
  - Can only comply with objective zoning standards to extent they facilitate density allowed by GP
- **Approval timeframes**
  - Shortened from 120 days to 90 days following EIR certification
  - 60 days for low-income projects seeking tax credit or public funding



# The “Housing Crisis Act” and impacts to Town’s housing pre-application and application processes (SB 330)

## Housing Crisis Act:

- **Freezes many development standards in “Urbanized areas” as defined by HCD (6/30/20)**
  - Applies starting January 1, 2020 (may be revised in light of the 2020 Census)
- **No reduction of density**
  - GP/zone densities for housing cannot be reduced below January 2018 numbers
  - Exception if concurrent change resulting in no net loss
  - No approval of projects demolishing residential units unless equal number are replaced
- **No moratoriums**
  - Only exception for imminent threats to public health and safety, if approved by HCD
  - No growth control measures limiting housing
- **Objective design standards**
  - Applies starting January 1, 2020
  - Cannot include design standards that involve personal or subjective judgment



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# Stricter State enforcement of Town's housing laws (Assembly Bill 101)

## Overview:

- Stepped up enforcement of Town's Housing Element compliance, including referral to California Attorney General ("Cal AG").
- Noncompliance can result in loss of access to certain State funds
- Also creates a "low barrier navigation center," a use by right allowed in certain zones



# Stricter State enforcement of Town's housing laws (Assembly Bill 101)

## Judicial Enforcement Broadened.

- Cal AG **must** seek court order that Housing Element not substantially compliant with State law upon referral from HCD.
- Enforcement by the court, after retaining jurisdiction would proceed as follows:
  1. Status conference within 1 year to determine substantial compliance with court order;
  2. Imposition of fines for continued failure to correct; and
  3. Appointment of court receiver possible.
- **Access to Funding at Risk:**
  - Compliant municipalities have preference in grant funding.



# Stricter State enforcement of Town's housing laws (Assembly Bill 101)

## Creation of new “Low Barrier Navigation Center”:

- A new use-by right in area zoned for mixed use and nonresidential zones permitting multifamily uses.
- A “service-enriched shelter focused on moving people into permanent housing ...” with “low barriers” to entries
- Local jurisdiction has 30 days to notify a developer of a Low Barrier Navigation Center whether the application is complete, and 60 days to decide whether to approve or disapprove the application.
- Sunsets on January 1, 2027.



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# Changes to Density Bonus law to promote 100% affordable housing developments (AB 1763)

## Background:

Existing density bonus law allows developers to increase density and receive other concessions in exchange for affordability restrictions of a percentage of units.



**Overview:** AB 1763 increases density bonus and other concessions for 100% affordable housing projects.



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# Changes to Density Bonus law to promote 100% affordable housing developments (AB 1763)

## Applies to:

- 100% affordable housing projects
  - Up to 20% may be moderate income units
  - At least 80% must be low income

## New Density Bonus:

- Up to 80% of the otherwise maximum allowable density
- If within ½ mile of a “major transit stop,” then there is no density limit.



# Changes to Density Bonus law to promote 100% affordable housing developments (AB 1763)

## New Regulatory Concessions:

- Qualifying affordable housing projects will receive **at least 4** concessions/incentives
- No minimum parking requirements
- If within ½ mile of major transit stop, then given a height increase of up to three stories or 33 feet

*Town may consider updating its existing density bonus ordinance to incorporate new provisions for 100% affordable housing projects*



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# Changes to how Town disposes of surplus land to bolster housing efforts (AB 1486)

**Overview:** Local agencies have new reporting and negotiation requirements before disposing of surplus property in an effort to increase affordable housing. State may enforce penalties if new requirements are not met.



# Changes to how Town disposes of surplus land to bolster housing efforts (AB 1486)

- For all eligible surplus land, Town must now take formal action, and send a “notice of availability” to specific entities within whose jurisdiction the surplus land is located (for purposes of developing affordable housing).
- Exemptions for existing ENAs (as of 9/30/19); certain Redevelopment Agency Property; properties exchanged between public agencies necessary for agency’s use; certain mixed-use developments with affordability covenants; etc.
- “Good Faith negotiations” following “Notice of Availability” responses (90 days required)
- Must send reported information re: surplus land disposal to HCD; who may begin enforcing monetary penalties for violation starting 1/1/2021



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