

SB 10: LOCAL REZONING FOR "MISSING MIDDLE" HOUSING PRODUCTION

Introduction

SB 10 was signed into law on September 16, 2021 and went into effect on January 1, 2022 and expires on January 1, 2029. SB 10 adds Government Code Section 65913.5 that provides agencies the option to upzone a "transit-rich area" or "urban infill" parcel, for a maximum of 10 residential units. The rezoning process is exempt from the California Environmental Quality Act (CEQA).

Provisions of SB 10

- ▶ When a local agency adopts an ordinance pursuant to SB 10, they must:
 - Declare that the zoning ordinance is adopted pursuant to SB 10;
 - Clearly demarcate the areas that are zoned pursuant to SB 10; and
 - Make findings that the increased density supports the agency's duty to affirmatively further fair housing pursuant to Government Code §8899.50.
- ▶ A local agency that approves a zoning ordinance pursuant to SB 10 shall not subsequently reduce the density of any parcel subject to the ordinance.
- ▶ Up to two accessory dwelling units (ADUs) or junior ADUs (JADUs), pursuant to Government §§65852.2 and 65852.22, would be permitted on each parcel, and these would not count toward the 10-unit threshold.
- ▶ An ordinance enacted pursuant to this legislation may override a local initiative restricting zoning, if the ordinance is adopted by two-thirds of the legislative body approving the ordinance.

Definitions

"Transit-rich area" means a parcel within one-half mile of a major transit stop, or a parcel on a high-quality bus corridor.

"Urban infill site" means a site that satisfies all of the following:

- A legal parcel located in an urbanized area or urban cluster, as designated by the U.S. Census.
- A site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.
- A site zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

Limitations of SB 10

- ▶ SB 10 does not apply to parcels in a very high fire severity zones, nor would it apply to parcels in open space, park or recreational lands approved by the voters.
- ▶ A project may not be divided into smaller projects to avoid limitations in SB 10.

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.