



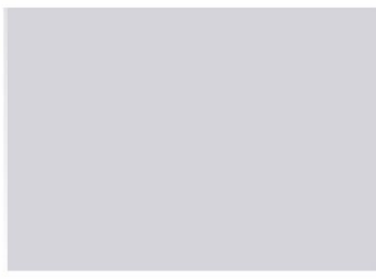
CITY OF  
CLOVERDALE



# Housing Law Update

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# Overview

- In recent years, the Legislature has adopted numerous laws aimed at addressing the housing crisis
- Some of the laws limit local control for qualifying projects
  - Often for projects with an affordable component, but not always
- These laws are being used more and more by developers



# Affordable Housing 101

# Affordable Housing 101

- Housing that is required to be rented/sold at affordable prices to households with incomes of no greater than certain levels
- Key Measurement is Area Median Income (AMI)
  - Above Moderate Income = More than 120% AMI
  - Moderate Income = Less than 120% AMI
  - Low Income = Less than 80% AMI
  - Very Low Income = Less than 50% AMI

# Affordable Housing 101

- In Sonoma County for a family of four the median income is \$103,300
- For rental unit, the tenant's housing cost (rent + utilities) cannot exceed a set value:
  - For a Very Low-income unit, the monthly housing costs may not exceed 30% of 50% of AMI divided by 12.
- For ownership units, there is a cap on resale price to ensure continued affordability
- Deed restrictions lay out specific requirements for 45 or 55 years

# Regional Housing Needs Assessment (RHNA)

- Every jurisdiction must provide its “fair share” of the State’s housing goals
  - HCD → ABAG → Cloverdale
- Housing Element contains inventory of sites with "realistic and demonstrated" potential of development to meet Housing Needs
  - Size & Density of sites determines what income category is can accommodate
- 6<sup>th</sup> Cycle ('23-'31) underway, Cloverdale will have final allocation soon

# RHNA Progress Report

- Current 5<sup>th</sup> Cycle RNHA Allocations

	Number of Units
Very Low Income	39
Low Income	29
Moderate	31
Above Moderate	112
Total	211

- 6<sup>th</sup> Cycle draft allocation for Cloverdale is 278 Units

SB 35



# SB 35

- **Allows** for streamlined ministerial approvals of multifamily residential projects that satisfy certain requirements
- Applies in cities that have issued fewer building permits than their share of the regional housing needs for affordable units, by income category
  - SB 35 applies in Cloverdale and almost every city in California.

# SB 35 – Affordability

- Projects larger than 10 units must satisfy one of the following:
  - At least **10% of the units** must be affordable to households making below **80% of AMI**.
  - At least **20% of the units** must be affordable to households making below **120% of AMI**, with an average income for the units at or below 100% AMI (Bay Area Counties Only)
- In cities that have met above-moderate income RHNA goal, **50% of the units** must be affordable to households making below **80% of AMI**.

# SB 35 – Requirements

- Project site must have zoning or general plan land use designation that allows residential
  - If mixed use, at least 2/3 of square footage must be residential
- Project must comply with all **objective** zoning and design standards
- Project must comply with certain other standards
  - Some are enforced by City, others are not

# Objective vs. Subjective

- Objective standards involve no personal or subjective judgment by a public official and are uniformly verifiable
  - Height limits
  - Density
  - Setback requirements
- Subjective standards involve personal or subjective verifiable
  - Conforms with neighborhood character
  - Uses similar materials to surrounding buildings

# SB 35 – Requirements

- 60 days from project submittal to determine if the project conflicts with any “objective planning standards” (90 days if project is more than 150 units).
  - Deemed compliant if response not timely given
- Any other review must occur within 90 days (180 days for large project)
- Ministerial Approval so CEQA does not apply

# Housing Accountability Act

# Background: Housing Accountability Act

- Existing law that has been on the books for a number of years
- Law's importance has grown in recent years
- Developers and “YIMBY” groups increasingly use HAA as tool to challenge housing project denials

# Housing Accountability Act

- Jurisdiction cannot disapprove of housing project or approval at a lower density if it complies with applicable, objective standards in place at the time the application is **deemed complete**
- Jurisdiction must identify inconsistencies in writing within 30/60 days depending on number of units



# Housing Accountability Act

- City can only deny project or approve it with lower density if preponderance of the evidence in record demonstrates
  - project would have a specific, adverse impact upon the public health or safety
  - No feasible method to satisfactorily mitigate or avoid the adverse impact
- Very difficult standard to meet
- Violations subject to \$10,000 fine per unit

# SB 330 – Housing Crisis Act of 2019

## Modifies Housing Accountability Act

- Jurisdiction cannot disapprove of housing project/approval at a lower density if it complies with applicable, objective standards in place upon complete **preliminary application**
- Preliminary application requires less than a full, complete application
  - Must contain information required by jurisdiction’s checklist, which can only require certain, limited information

# SB 330 – Housing Crisis Act of 2019

## Modifies Housing Accountability Act

- Locks in standards earlier in development process
  - Fees can be adjusted in accordance with existing CPI escalator
- Complete application required within 180 days
  - Construction must start within 2.5 years
- Changes to the project allowed, including increasing the number of units or square footage by up to 20%
  - Project must still comply with standards in place at time preliminary application submitted

# SB 330 – Housing Crisis Act of 2019

- **Prohibits** changes to a parcel on which residential use is allowed to a “less intensive use,” including “anything that would lessen the intensity of housing” such as:
  - Reduction in height or density
  - Increased setback requirements or maximum lot coverage requirements
- **Prohibits** moratorium on housing development, with very limited exceptions
- **Prohibits** jurisdiction from enforcing subjective design standards established after January 1, 2020

# SB 330 – Housing Crisis Act of 2019

## These restrictions apply to an “affected” city or county

- “*affected city*”
  - City within an urbanized area or urban cluster
  - Except for cities with a population of less than 5,000 not located within an urbanized area
- “*affected county*”
  - A census designated place that is wholly within an urbanized area
- HCD has determined Cloverdale is an “affected city”

# SB 330 – Housing Crisis Act of 2019

- **Prohibits** growth control ordinances and similar limitations on the number of permits for housing that can be issued

Does not apply if



Limit approved by voters prior to January 1, 2005

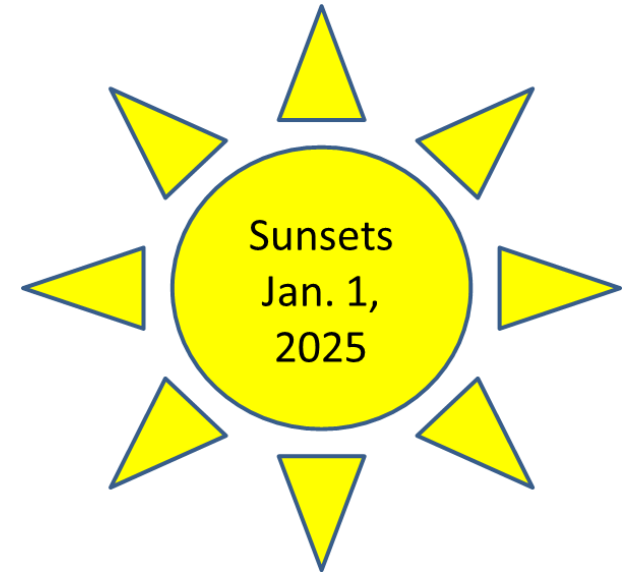
**AND**

City or county is located within a county for which at least 50%, and a minimum of 550,000 acres, of the county area is agricultural land

→ Cloverdale's growth control ordinance does not meet these requirements and is **suspended**

# SB 330 (cont.)

- **Prohibits** more than five hearings of any kind for projects that meet all applicable, objective standards
- **Reduces some deadlines** in the Permit Streamlining Act by 30 days for housing projects
- **Restricts** demolition of existing residential units
- **Sunsets** in 2025...for now



# Density Bonus Law



# Density Bonus Law

- Developers who build a certain percentage of affordable units in a project are entitled to a specific density bonus
  - For example: If density for a parcel is 20 units/acre and developer received a 10% density bonus, project could have a density of 22 units/acre
- The greater the percentage of affordable units, the larger the density bonus
- Inclusionary units count toward bonus

# Density Bonus Law

Affordable Unit Percentage	Very-Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus
5%	20%	-	-
8%	27.5%	-	-
10%	32.5%	20%	5%
13%	35%	24.5%	8%
15%	35%	27.5%	10%
20%	35%	35%	15%
25%	35%	35%	20%
30%	35%	35%	25%
35%	35%	35%	30%
40%	35%	35%	35%
100%	80%	80%	35%

# Density Bonus Law

- In addition to the density bonus, qualifying projects are also entitled to up to 3 incentives
  - An incentive is a reduction in site development standards or a modification of zoning code/design requirement
  - Examples include decreased parking, increased height, elimination of required amenities or architectural standard
- City is required to grant the incentive unless it finds that the proposed incentive
  - Does not result in identifiable and actual cost reductions; or
  - Would have an unavoidable adverse impact on health or safety

# Density Bonus Law

- Density Bonus projects are also entitled to **waive** any development standard that would physically prevent the project from being built at the permitted density and with the granted incentives
- Density Bonus projects are also subject to maximum parking requirements, which can be further decreased through the use of an incentive
  - One bedroom or smaller -> 1 space
  - 2-3 Bedrooms -> 1.5 spaces

# Questions?

