

DISCLAIMER: This document is intended solely as a technical overview of SB 684 (2023). It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed subdivision or housing development project. Local staff should consult with their city attorney or county counsel when determining the applicability and form of these provisions.

SB 684 Model Ordinance

NOTE: Unless otherwise noted, provisions in this document reflect the required provisions in SB 684. “Recommended” provisions are suggestions to clarify ambiguities in the statute, assist in enforcement, or are optional in SB 984, but recommended depending on the local agency’s policy decisions. “Policy” provisions are optional provisions in the statute for local agencies to consider. A [Template Application Review Checklist](#) is provided to accompany this model ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE [CITY/COUNTY] OF [XX] AMENDING THE MUNICIPAL CODE TO UPDATE THE CITY'S DENSITY BONUS ORDINANCE TO REFLECT CHANGES MADE IN STATE LAW.

WHEREAS, on October 11, 2023, Senate Bill 684 (Chapter 783, Statutes of 2023) was approved by the Governor of the State of California and filed with the Secretary of State, adding to the Government Code Sections 65852.28, 65913.4.5, and 66499.41, allowing ministerial approval of a subdivision of ten or fewer parcels and ten or fewer residential units that meet specified requirements; and

WHEREAS, the changes made to the Government Code by Senate Bill 684 go into effect on July 1, 2024; and

WHEREAS, state law allows a local agency to adopt an ordinance to implement the provisions in Senate Bill 684; and

WHEREAS, the [City/County of _____ (the “City”/the “County”)] has implemented land use policies based on the [City/County]’s General Plan, which provide an overall vision for the community and balance important community needs, and the [City/County] seeks to ensure that Senate Bill 684 projects are consistent with those policies; and

WHEREAS, the proposed amendments to the [City of _____ Municipal Code/County of _____ County Code] implement requirements of state law and add local policies that are consistent with the state law and implement the [City/County]’s General Plan; and

WHEREAS, the Planning Commission of the [City/County of _____] held a duly and properly noticed public hearing on [date], to take public testimony and recommended the [City Council/Board of Supervisors] adopt the proposed ordinance; and

WHEREAS, the [City Council/Board of Supervisors] has found that the provisions of this ordinance are consistent with the goals and policies of the [City/County]’s General Plan; and

WHEREAS, the proposed code amendments are intended to implement Senate Bill 684 and are not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in Government Code Sections 65852.28(e), 65913.4.5(b), and 66499.41(i).¹

NOW, THEREFORE, THE [CITY COUNCIL OF THE CITY OF XX/BOARD OF SUPERVISORS OF THE COUNTY OF XX] DOES ORDAIN AS FOLLOWS:

SECTION 1. Purpose. The purpose of this chapter is to provide objective zoning standards for small lot subdivisions with ten or fewer units , to implement the provisions of state law as reflected in Government Code Section 65852.28, Section 65913.4.5, and Section 66499.41, and to facilitate the development of new residential housing units consistent with the [City/County]’s General Plan and ensure sound standards of public health and safety.

SECTION 2. CEQA Findings. The proposed [Municipal/County Code] amendment has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq*) (“CEQA”). The [City Council/Board of Directors] has determined that the text amendment in this ordinance is not a project under CEQA pursuant to Government Code Sections 65852.28(e), 659.13.4.5(b), and 66499.41(i) and thus is not subject to further environmental review under CEQA.

SECTION 3. Authority. The [City Council/Board of Supervisors] enacts this ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution and Government Code Sections 65852.28, 65913.4.5, and 66499.41.

SECTION 4. Definitions.

- A. [Recommended provision] “Extremely low-income household” has the meaning set forth in Health & Safety Code Section 50106.
- B. [Recommended provision] “Lower-income household” has the meaning set forth in Health & Safety Code Section 50079.5.
- C. [Recommended provision] “Moderate income household” has the meaning set forth in Health & Safety Code Section 50093.
- D. “Qualified urban use” has the meaning set forth in Public Resources Code Section 21072.
- E. “Substantially surrounded” has the meaning set forth in Public Resources Code Section 21159.25.
- F. [Recommended provision] “Very low-income household” has the meaning set forth in Health & Safety Code Section 50105.

¹ Note that these Government Code Sections are not effective until July 1, 2024. Cities and counties adopting ordinances before that date should include additional exemptions.

SECTION 5. Small Lot Subdivision.

- A. The [Director] shall ministerially review, without a hearing, an application for a parcel map or a tentative and final map for a housing development project, and shall approve the application if the criteria in Government Code Section 66499.41 and this section are satisfied.
- B. **Qualifying Criteria.** Within sixty days from the receipt of a complete application, the [Director] shall determine if the parcel map or tentative and final map for the subdivision meets all the following requirements:
1. The parcel is located within one of the following multi-family residential zones: [list of applicable zones].
 2. The proposed subdivision will result in ten or fewer parcels and the housing development project on the lot proposed to be subdivided will contain ten or fewer residential units.
 3. The lot is no larger than five acres and substantially surrounded by qualified urban uses.
 4. The lot is a legal parcel.²
 5. The lot was not established pursuant to this Section [identify municipal/county code this is in] or an urban lot split pursuant to Government Code Section 66411.7 and Section [include municipal/county code section if it exists].
 6. The newly created parcels are no smaller than 600 square feet.³
 7. The housing units on the lot proposed to be subdivided are one of the following:
 - a. Constructed on fee simple ownership lots;
 - b. Part of a common interest development;
 - c. Part of a housing cooperative, as defined in Civil Code Section 817; or
 - d. Owned by a community land trust meeting the requirements of Government Code Section 66499.41.
 8. The proposed development must meet one of the following⁴:
 - a. If the parcel is identified in the Housing Element for the current planning period, the development must result in at least as many units as projected for the parcel in the Housing Element. If the parcel is identified to accommodate low- or very-low income households, the development must result in at least as many low- or very-low income units as projected in the Housing Element.

² Note this section only applies if the parcel is located in an incorporated city, the boundaries of which include some portion of an urbanized area, or an urbanized area/urban cluster in a county with a population greater than 600,000 based on the most recent US Census Bureau data. See Gov Code § 66499.41 for definition of Urbanized Area and Urban Cluster

³ Local agencies may allow for a smaller minimum parcel size if they desire.

⁴ Note that the statute requires the housing element to be in substantial compliance with Housing Element law. This ordinance assumes the Housing Element is substantially compliant and does not add this qualifier in the ordinance.

These units shall be subject to a recorded affordability restriction of at least 45 years.

- b. If the parcel is not identified in the Housing Element for the current planning period, the development must result in at least as many units as the maximum allowable residential density for the parcel.
9. The average total area of floorspace for the proposed housing units on the lot proposed to be subdivided does not exceed 1,750 net habitable square feet.
10. The housing development project on the lot proposed to be subdivided complies with Section [include section where city/county inclusionary zoning ordinance is located. If city/county does not have an inclusionary zoning ordinance, remove this subsection].
11. The housing development project on the lot proposed to be subdivided would not require demolition or alteration of any of the following types of housing:
 - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low-, very low-, or extremely low-income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.
 - d. A parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
12. The lot being subdivided is not located on a site that is any of the following:
 - a. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - b. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - c. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on

maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

- d. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
- e. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by the building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.
- f. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met: (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the [city/county]; or (2) the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- g. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site.

- h. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
 - i. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
 - j. Lands under conservation easement.
13. The proposed subdivision shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410), except as otherwise expressly provided in this chapter and Government Code Section 66499.41.
 14. The proposed subdivision complies with all applicable standards established in Section [list code section for housing development below] and Government Code Section 65852.28.
 15. The parcels created pursuant to this Section must be served by a public water system and a municipal sewer system.
 16. The development proposed on the parcels complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located,⁵ except that a proposed housing development is not required to comply with minimum requirements on size, width, depth, or dimensions of an individual parcel beyond the minimum parcel size specified in Section 6 [above].
 17. [Recommended provision] If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d).

[POLICY CONSIDERATIONS: The following are included in the statute as things the local agency may do, but do but is not required to do. These provisions could be added in the text, above, in a new section located after Section B.]

- C. [A local agency should consider whether it wants to require development of housing on each of the lots created pursuant to this statute. If yes, suggest the following be added:]

“Development on Each Lot. At least one residential structure in compliance with applicable provisions of the California Building Standards Code [or including municipal/county code section] must be developed on each resulting parcel that does not already contain an existing

⁵ Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.

legally permitted residential structure or is reserved for internal circulation, open space, or common area.”

- D. *[A local agency should consider whether it wants to allow accessory dwelling units (ADU) and/or junior accessory dwelling units (JADU) on the parcels created by this statute. If no, the following text should be added:]*

“Prohibition of Accessory Dwelling and Junior Accessory Dwelling Units. An accessory dwelling unit or junior accessory dwelling unit shall not be permitted on a parcel created through this chapter.”

- E. *[Local agency should consider whether it wants to allow further subdivision by an Urban Lot Split. If it does not, the following text should be added:]*

“Prohibition of Urban Lot Splits. A parcel created under this chapter may not be further subdivided pursuant to an urban lot split under Section [municipal/county code for Urban Lot Splits] or Government Code Section 66411.7.”

- F. *[Recommended provision]* **Declaration of Prior Tenancies.** If any existing housing is proposed to be demolished, the owner of the property proposed for the subdivision shall sign an affidavit, in the form approved by the [Director/city attorney/county counsel], stating that none of the conditions listed in Section 11 above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past five years on a form approved by the [Director].

- G. **Specific Adverse Impacts.** In addition to the criteria listed in this section, a subdivision proposed under this chapter may be denied if the [Director] makes a written finding, based on a preponderance of the evidence, that the proposed subdivision or proposed housing development project would have a specific, adverse impact upon public health and safety, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

- H. *[Recommended provision⁶]* **Enforcement.** The [city attorney/county counsel] shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the [City/County] from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 6. Housing Development of Small Lot Subdivisions.

- A. The [Director] shall ministerially review, without a hearing, an application for a housing development project on a lot that is subdivided pursuant to Section [municipal/county code

⁶ An enforcement mechanism is recommended. Sample language is provided if it is needed, however, this could be omitted if there is a global enforcement mechanism in the zoning code, or a citation to where enforcement is provided.

[section for small lot subdivision above] and Government Code Section 66499.41, and shall approve the application if the criteria in Government Code Section 65852.28 and this section are satisfied.

B. Qualifying Criteria. Within sixty days from the receipt of a complete application, the [Director] shall determine if the housing development project meets all the following requirements:

1. The proposed housing development is on a lot created in accordance with Section [municipal/county code section above for subdivision] and Government Code Section 66499.41.
2. The proposed housing development complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located⁷ that do not conflict with Section [municipal/county code section above for subdivision] and Government Code Sections 65852.28 and 66499.41; provided, however:
 - a. The [Director], or their designee, shall modify or waive any standard if the standard would have the effect of physically precluding the construction of the development project at [10/15/20/30]⁸ dwelling units per acre⁹. Any modifications of development standards shall be the minimum modification necessary.
 - b. No setback between the units is required, except as provided in the California Building Code (Title 24 of the California Code of Regulations).
 - c. Required rear and side yard setbacks from the original lot line shall equal four feet, except that no setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.
3. **Parking.** One parking space,¹⁰ which may be uncovered or not enclosed, shall be required per unit constructed on a parcel created pursuant to the procedures in this section, except that no parking may be required where the parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3.
4. **Floor Area Ratio Standards.** The following floor area ratios shall apply¹¹:

⁷ Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.

⁸ Housing should be allowed at densities specified in Government Code 65583.2: 10 dwelling units per acre for an unincorporated area in a nonmetropolitan county; 15 dwelling units per acre for both an incorporated city in a nonmetropolitan county and a micropolitan area in an unincorporated nonmetropolitan county; 20 dwelling units per acre for a suburban jurisdiction; 30 dwelling units per acre for a jurisdiction in a metropolitan county.

⁹ Local agency may adopt a greater density; if a greater density is applicable, this paragraph should be modified.

¹⁰ Agencies may reduce parking standards if desired.

¹¹ These FARs are minimums. Local agency may provide greater FARs if desired.

- a. For a housing development project consisting of three to seven units, inclusive, the floor area ratio is 1.0.
 - b. For a housing development project consisting of eight to ten units, inclusive, the floor area ratio is 1.25.
- C. Specific Adverse Impacts.** In addition to the criteria listed in this section, a proposed housing development may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.
- D. [Recommended provision]¹² Enforcement.** The [city attorney/county counsel] shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the [city/county] from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 7. Building Permits for Housing Development of Small Lot Subdivisions

- A.** The [Building Official] shall issue a building permit for one or more residential units that are part of a housing development project on a lot that is subdivided pursuant to Section [municipal/county code section for small lot subdivision above] and Government Code Section 66499.41, and shall approve the application if the criteria in Government Code Section 65852.28 and this section are satisfied and has met the following criteria:
 - 1. The applicant has received a tentative map or parcel map approval for the subdivision.
 - 2. The applicant has submitted a complete building permit application.
- B.** Any dedication, improvement, and sewer requirements identified in the approved tentative map or parcel map or its conditions of approval shall be guaranteed to the [City/County]’s satisfaction.
- C. [Recommended provision]** The applicant must submit proof, to the satisfaction of the [Director/city attorney/county counsel], of a recorded covenant and agreement enforceable by the [city/county] that the applicant agrees the building permit is issued on condition that a

¹² An enforcement mechanism is recommended. Sample language is provided if it is needed, however, this could be omitted if there is a global enforcement mechanism in the zoning code, or a citation to where enforcement is provided.

certificate of occupancy or equivalent final approval for the building will not be issued unless the final map has been recorded.

- D. *[Recommended provision]* The applicant shall provide security to ensure faithful performance of the requirements identified in the approved tentative or parcel map or its conditions of approval in the form of bonds, an instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the sufficient funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter of credit from such a financial institution. The amount of the security shall be *[an amount not more than 300%]* of the total estimated cost of improvements or acts to be performed.
- E. **Specific Adverse Impacts.** In addition to the criteria listed in this section, issuance of a building permit may be denied if the Building Official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.
- F. *[Recommended provision¹³]* **Enforcement.** The *[city attorney/county counsel]* shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the *[city/county]* from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 8. Severability. ¹⁴ If any section, subsection, paragraph, sentence, clause or phrase of the Ordinance, or its application to any person or circumstance, is for any reason held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The *[City Council/Board]* declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

SECTION 9. Effective Date. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption. *(Note: If Coastal Commission approval is required, use*

¹³ An enforcement mechanism is recommended. Sample language is provided if it is needed, however, this could be omitted if there is a global enforcement mechanism in the zoning code, or a citation to where enforcement is provided.

¹⁴ A severability section should be included; however, the city/county should use language consistent with what is normally included in their ordinances. Sample language is provided here if it is needed.

following alternate language, “This Ordinance shall take effect upon approval of the California Coastal Commission.”)

INTRODUCED AND FIRST READ at a regular meeting of the [City Council of the City of XX/Board of Supervisors of the County of XX] held on the on the ____ day of _____, 202_; and thereafter **PASSED AND ADOPTED** at a regular meeting of the [City Council of the City of XX/Board of Supervisors of the County of XX], California, on the ____ day of _____, 202_, by the following vote:

AYES: [Councilmembers/Supervisors] –

NOES: [Councilmembers/Supervisors] –

ABSENT: [Councilmembers/Supervisors] –

[Mayor/Chair]

ATTEST:

[NAME]

[CITY/COUNTY CLERK]

APPROVED AS TO FORM:

[NAME]

[CITY ATTORNEY/COUNTY COUNSEL]