



By-Right Housing Development Act

Summary: This policy is designed to increase the production of housing by streamlining the approval process for development when that proposed development meets all the rules for such development in a given community. In that way the policy does not interfere with local considerations, but it does speed up the process for approval. In doing so, this policy addresses statewide housing shortages and promotes affordability by reducing the delays in the approval process that increase the costs of building. With so many individuals in need of housing, projects that meet municipality or county requirements should be prioritized, and local governments should not be responsible for delayed access to housing.

Section 1: Purpose

1.1 The purpose of this Act is to promote the development of housing by streamlining the approval process for by-right development, including single-family homes, multifamily housing units, and accessory dwelling units (ADUs). By facilitating the construction of additional housing units, this Act aims to address statewide housing shortages and promote affordability.

Section 2: Definitions

2.1 For the purposes of this Act:

(a) “By-Right Development” refers to the approval of proposed housing projects as a matter of right if they comply with established land use regulations, without the need for discretionary review or approval.

(b) “Single-family homes” means a dwelling either detached or semidetached, arranged, intended, or designed to be occupied by a single family.

(c) “Multifamily Housing Unit” refers to a residential building containing two or more housing units, such as apartment buildings, condominiums, or townhouses.

(d) “Accessory Dwelling Unit (ADU)” means a secondary housing unit that is subordinate to the primary dwelling unit on the same lot and may include a separate kitchen, bathroom, and entrance.

Section 3: By-Right Housing Development

3.1 All proposed housing developments, including ADUs and multifamily housing units, that meet the criteria outlined in the zoning code and land use regulations shall be approved by-right, without the need for discretionary review or approval by planning commissions, zoning boards, or other regulatory bodies.

Section 4: Monitoring and Compliance

4.1 Regulatory authorities shall monitor compliance with approved by-right housing developments to ensure adherence to applicable regulations and standards.

4.2 Non-compliance with by-right approvals may result in enforcement actions, such as fines, penalties, or project modifications to bring the development into compliance.

Section 5: Restrictive Covenants or Condominium Association or Homeowners’ Association (HOA) Regulations

5.1 Nothing in this act shall be construed to invalidate or limit the legality, enforceability, or effect of restrictive covenants or Condominium Association or Homeowners’ Association (HOA) regulations. Courts shall recognize and enforce such covenants and Condominium Association or HOA regulations in accordance with applicable laws.

Section 6: Appeal Process for Denied Permit Applications

6.1 The court shall review the decision of the permitting authority de novo. The inquiry in such a case shall extend to the questions whether the permitting authority has proceeded without, or in excess of, jurisdiction; whether there was a fair process; and whether there was any abuse of discretion.

6.2 Abuse of discretion is established if the court determines that the permitting authority's findings are not supported by clear and convincing evidence in the light of the whole record.

6.3 If the court overturns the denial, it may remand to the permitting authority or direct the permitting authority to grant the permit.

6.4 The court retains authority to exercise equitable authority where appropriate and shall award the successful applicant attorney fees and expenses. In no circumstances will attorney fees or expenses be awarded to the government or a third party challenging a permit.