

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: May 20, 2022

TO: Department of City Planning Staff;
Department of Building and Safety Staff;
and Interested Parties

FROM: Vince P. Bertoni, AICF 
Director of Planning
Department of City Planning

SUBJECT: **IMPLEMENTATION OF SB 478 (2021)**

On September 28, 2021, the Governor signed Senate Bill (SB) 478, also known as the Housing Opportunity Act. The bill adds Government Code Sections (§) 4747 and 65913.11 and amends Housing Element Law at Government Code §65585 to include a number of changes and clarifications. SB 478 will enable the construction of multi-family units in zones where restrictions on Floor Area Ratio (FAR) and minimum lot size restrict their development.

This memo will serve as interim guidance for staff and project applicants on the implementation of SB 478 until the time this memo is superseded. Staff and interested parties are encouraged to refer to state law in Government Code §4747, §65585, and §65913.11 for additional information as the memo is not exhaustive.

SB 478 Provisions and Restrictions

SB 478 provides minimum statewide standards on FAR and minimum lot sizes for housing development projects of three to ten units on land zoned for multi-family or mixed-uses, commonly known as “missing middle” housing. Specifically, for eligible projects, the bill provides that local jurisdictions may not:

1. Impose a Floor Area Ratio standard that is less than 1.0:1 for an eligible housing development project consisting of three to seven units,
2. Impose a Floor Area Ratio standard that is less than 1.25:1 for an eligible housing development project consisting of eight to ten units,
3. Deny an eligible housing development project located on an existing legal parcel solely on the basis that the lot area of the proposed lot does not meet the local agency’s requirements for minimum lot size, and
4. Impose any other lot coverage requirements that would physically preclude a qualifying project from achieving the permitted FAR described above.

Within the City of Los Angeles, this provision would remove the existing two-unit density limitations related to substandard lot size that are less than 4,000 square feet in size in the R3, RAS3, R4, RAS4 and R5 zones (per LAMC 12.10 C.4, 12.10.5 C.4, 12.11 C.4, 12.11.5 C.4, and 12.12 C.4 i).¹

The bill does not prohibit a local government from imposing other zoning or design standards, such as height and setback limits, except for a lot coverage requirement that would physically preclude a qualifying project from achieving the permitted FAR as mentioned above.

¹ The two dwelling unit maximum restriction for substandard lots with less than 4,000 square feet in the R3, RAS3 R4, RAS4 and R5 zones per LAMC 12.10 C.4, 12.10.5.C.4, 12.11 C.4, 12.11.5.C4, and 12.12 C.4 is no longer applicable to projects that meet the eligibility requirements outlined in this memo.

Additionally, the bill makes void and unenforceable any covenant, condition, or restriction (CC&Rs) contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts a housing development project from using the Floor Area Ratio standards authorized under the provisions described above. The bill also limits private restrictions such as homeowners' association CC&Rs that effectively prohibit or unreasonably restrict an eligible project from achieving the permitted FAR.

The California Department of Housing and Community Development (HCD) is tasked with identifying violations, notifying city, county or city and counties that are not in compliance, and may notify the State's Attorney General, which can bring a suit to enforce the law.

Eligible Projects

The provisions of SB 478 apply to Housing Development Projects that are located in either a multi-family residential zone or a mixed-use zone that allows density of 3-10 units (such as RD1.5, RD2, RD3, RD4, RD5, RD6, RMP, R3, RAS3, R4, RAS4, R5, CR, C1, C1.5, C2, C4, C5 and CM), as designated by the City. This includes any zone that allows a multifamily residential use, including Commercial and Hybrid Industrial Zones. Projects located in a single-family zone are not eligible, nor are projects located within a historic district or property included on the State Historic Resources Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county Ordinance. As such, properties in Historic Preservation Overlay Zones (HPOZs) and those designated as Historic Cultural Monuments (HCMs) are not subject to the provisions of this law.

A housing development project is defined by §65589.5 as a use consisting of any of the following: a) residential units, or b) mixed-income developments consisting of residential and nonresidential uses with at least two-thirds of the square footage (Floor Area) designated for residential use, or c) transitional housing or supportive housing. Eligible projects must comply with existing density limitations and consist of at least three, but not more than ten units, as determined prior to the receipt of bonus units granted as a result of a Density Bonus or local affordable housing incentive program, such as the Transit Oriented Communities (TOC) or CPIO affordable housing programs. If a lot has a limited FAR, SB 478 will allow an applicant to use the higher FAR as the base FAR for eligible projects under Density Bonus or a local housing incentive program.

Implementation and Effective Date

On January 1, 2022, the SB 478 provisions and amendments described above became effective and available to any housing development project, provided the project meets the criteria in state law. This will apply to any project deemed complete and approved after January 1, 2022.

For Discretionary Projects, if a Letter of Determination has not yet been issued and an applicant would like to request to utilize additional allowances provided by this bill, please contact the planner assigned to the case (available in the online Planning Case Tracking System (PCTS)). The Affordable Housing Referral Form and any other relevant materials shall be amended to include the new request. If a project already has an approved entitlement, revised plans will need to be provided to the Senior Planner of the Project Planning team that processed the entitlement case.

Ministerial Projects that were submitted for plan check prior to January 1, 2022, which want to use these provisions will need to submit for a supplemental plan check and permit review. Projects that submit for plan check on or after January 1, 2022, are eligible to use these provisions.

For any questions related to this memo, please contact the Citywide housing policy team at planning.housingpolicy@lacity.org. For questions about the building permit process please contact LADBS through the City's 311 call center by dialing 311 or by visiting <https://www.ladbs.org/our-organization/customer-services/contact-us>.