

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2162 (Chiu) – As Amended April 10, 2018

**SUBJECT:** Planning and zoning: housing development: supportive housing.

**SUMMARY:** Requires supportive housing to be a use “by right” if the supportive housing development meets specified criteria. Specifically, **this bill:**

- 1) Requires supportive housing to be a use by right in zones where multifamily and mixed uses are permitted, including commercial zones permitting multifamily uses, if the proposed housing development satisfies all of the following requirements:
  - a) Units within the development are subject to a recorded affordability restriction for 55 years;
  - b) One hundred percent of the units, excluding manager’s units, within the development are dedicated to lower-income households and are receiving public funding to ensure affordability of the housing to lower-income Californians;
  - c) At least 35% of the units in the development or 15 units, whichever is greater, are restricted to residents in supportive housing. Requires, if the development consists of fewer than 15 units, then 100% of the units, excluding managers’ units, in the development shall be restricted to residents in supportive housing;
  - d) The developer provides the planning agency with the information required in 4), below;
  - e) Nonresidential floor area shall be used for onsite supportive services in the following amounts:
    - i) For a development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services;
    - ii) For a development with more than 20 units, at least three percent of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens;
  - f) The developer replaces any dwelling units on the site of the supportive housing development, as provided; and,
  - g) Units within the development, excluding managers’ units, include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.
- 2) Allows a local government to require a supportive housing development to comply with objective, written development standards and policies; provided, however, that the development shall only be subject to the objective standards and policies that apply to other multifamily development within the same zone.

- 3) Requires the local government to, at the request of the project owner, reduce the number of residents required to live in supportive housing if the project-based rental assistance or operating subsidy for a supportive housing project is terminated through no fault of the project owner, but only if all of the following conditions have been met:
  - a) The owner demonstrates that it has made good faith efforts to find other sources of financial support;
  - b) Any change in the number of supportive units is restricted to the minimum necessary to maintain project's financial feasibility; and,
  - c) Any change to the occupancy of the supportive housing units is made in a manner that minimizes tenant disruption and only upon the vacancy of any supportive housing units.
- 4) Requires a developer of supportive housing to provide the planning agency with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project, and describing those services, which shall include the following:
  - a) The name of the proposed entity or entities that will provide supportive services;
  - b) The proposed funding source or sources for the provided onsite supportive services; and,
  - c) Proposed staffing levels.
- 5) Requires the local government to approve a supportive housing development that complies with the requirements of this bill.
- 6) Requires the local government to notify the developer whether the application is complete within 30 days of receipt of an application to develop supportive housing. Requires the local government to complete its review of the application within 60 days after the application is complete, for a project with 25 or fewer units, or within 90 days after the application is complete, for a project with more than 25 units.
- 7) Prohibits the local government from imposing any minimum parking requirements for the units occupied by supportive housing residents, if the supportive housing development is located within ½ mile of a public transit stop.
- 8) States that the bill's provisions shall not be construed to do either of the following:
  - a) Preclude or limit the ability of a developer to seek a density bonus from the local government; or,
  - b) Expand or contract the authority of a local government to adopt or amend an ordinance, charter, general plan, specific plan, resolution, or other land use policy or regulation that promotes the development of supportive housing.
- 9) Adds provisions to housing element law to specify that supportive housing, as defined in this bill, shall be a use by right in all zones where multifamily and mixed uses are permitted.

- 10) Finds and declares that the provisions of adequate supportive housing to help alleviate the severe shortage of housing opportunities for people experiencing homelessness in this state is a matter of statewide concern and is not a municipal affair, thereby applying the bill's provisions to all cities, including charter cities.
- 11) States that no reimbursement is required by this act because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.
- 12) Defines the following terms:
  - a) "Supportive housing" to mean housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.
  - b) "Supportive services" to include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy.
  - c) "Use by right" to mean the local government's review of the owner-occupied or multifamily residential use that may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of the California Environmental Quality Act (CEQA), as specified.

**EXISTING LAW:**

- 1) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 2) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** AB 2162 prohibits local governments from applying a conditional use permit or other discretionary review to the approval of 100% affordable developments that include a percentage of supportive housing units, either 35% or 15 units, whichever is greater, on sites that are zoned for residential use. Developers would be required to include facilities and onsite services for residents of the supportive housing units. In addition, developers must provide the local government the name of the service provider, staffing levels, and funding sources for the services. The bill allows local governments to apply objective and quantifiable design standards to a development, and requires local government

to notify a developer within 30 days if the project application is complete and within 60 days if the project meets the requirements for streamlining.

This bill is co-sponsored by the Corporation for Supportive Housing and Housing California.

- 2) **Author's Statement.** According to the author, "California is facing a homelessness crisis. Our state is home to 25 percent of our nation's homeless population and 42 percent of our nation's chronically homeless. Already home to the largest homeless population in the country, from 2016 to 2017 California experienced the largest increase in the number of residents experiencing homelessness – over 16,000 individuals. Virtually every community in the state has been impacted, with devastating effects on public health. San Diego and Los Angeles have experienced deadly Hepatitis A outbreaks and the American River has been contaminated with E. coli. Wildfires across the state have exacerbated homelessness. Decades of research show that supportive housing – a stable, affordable place to live with no limit on that stay, along with services that promote housing stability – ends homelessness among people who experience chronic homelessness. Supportive housing lowers public health costs, reduces blight and improves property values, and decreases recidivism in our local jails and state prisons. For these reasons, the state has invested millions of dollars in leveraging federal and local dollars to create more supportive housing. California needs more developers to build supportive housing to use these resources more efficiently.

"AB 2162 responds to our homeless crisis by expediting the delivery of supportive housing around the state by requiring developments that are 100% affordable and include a percentage of supportive housing units to be approved through a ministerial process."

- 3) **Use by Right.** Some local governments permit housing as a "use by right" which allows city and county planners to approve a housing development through an administrative process without a public hearing. However, this practice is uncommon and does not typically include supportive housing developments. By right approval does not allow for a conditional use permit, planned unit development permit, or other discretionary local government review or CEQA review which triggers public hearings and potential opposition to a housing development.
- 4) **Existing Streamlining Requirements.** SB 2 (Cedillo), Chapter 663, Statutes of 2008, required counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multi-family residential housing for zoning purposes and may only apply the same restrictions as multi-family housing in the same zone to supportive housing.

SB 35 (Wiener), Chapter 336, Statutes of 2017, required local jurisdictions that have not met their above-moderate income (120% of AMI or above) or their lower income (80% of AMI or below) regional housing needs assessment (RHNA) to streamline certain housing developments. Jurisdictions that are not meeting their lower income RNHA numbers are required to streamline developments that restrict at least 50% of the units in a development to households earning 80% of AMI or below. SB 35 is also limited to urban, infill sites and has limited application on sites where rental housing existed within the last 10 years. Unlike

SB 35, this bill would apply to all areas of the state, urban and rural, and would apply regardless if a local government has met the RNHA.

- 5) **Arguments in Support.** Supporters argue that this bill responds to California's homelessness crisis by expediting the delivery of supportive housing around the state through a more streamlined process.
- 6) **Arguments in Opposition.** Opponents argue that in certain cases, this bill would require land use decision making processes to be circumvented in order to streamline affordable housing projects, and that making decisions without the public's input is a poor way to represent constituents.
- 7) **Double-referral.** This bill was heard in the Housing and Community Development Committee on March 21, 2018, and passed on a 4-1 vote.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Corporation for Supportive Housing [CO-SPONSOR]  
 Housing California [CO-SPONSOR]  
 Abode Services  
 American Planning Association, California Chapter (if amended)  
 A Community of Friends  
 California Apartment Association  
 California Housing Consortium  
 County of Santa Clara  
 Destination: Home  
 Disability Rights California  
 EAH Housing  
 National Association of Social Workers – California Chapter  
 Non-Profit Housing Association of Northern California  
 PATH  
 San Diego Housing Federation  
 Southern California Association of Nonprofit Housing  
 Supportive Housing Alliance  
 Venice Community Housing Corporation  
 Individual letters (1)

##### **Opposition**

Cities of Fullerton and Huntington Beach

**Analysis Prepared by:** Debbie Michel / L. GOV. / (916) 319-3958