

## Faith and Housing Model Legislation

### Section 1. Title

- (a) This Act shall be known and may be cited as the "Faith and Housing Act".

### Section 2. Purpose and Intent

- (a) To address housing shortages and enhance affordability, it is the policy of [state] to authorize faith-based organizations to develop housing as by-right on their properties. This act aims to leverage underutilized faith-based sites for community benefit by increasing housing access, reducing regulatory barriers, and promoting community-focused development. Project approvals are to rely on objective, transparent standards, ensuring both operational flexibility for faith-based organizations and alignment with local housing needs.

### Section 3. Definitions

For the purposes of this Section:

- (a) "Active Ground Floor" means a portion of the ground floor dedicated to public-facing or commercial uses, such as retail spaces, restaurants, or community centers.
- (b) "Ancillary Uses" means additional uses within eligible developments that support and complement the primary mission of the Faith-Based Organization. These may include child care, social services, educational spaces, and commercial spaces, such as bookstores, cafes, or food distribution centers.
- (c) "Development Site" means the land owned, leased, or controlled by a Faith-Based Organization, eligible for residential, commercial, or mixed-use development. This includes sites in single-family, duplex, commercial, office, institutional, civic and multi-family zones, but excludes light and heavy industrial zones unless residential uses are specifically permitted by zoning.
- (d) "Faith-Based Organization" means a church, convention or association of churches, or other organization organized and operated primarily for religious purposes that is described in section 501(c)(3) and exempt from taxation under section 501(a) of the Internal Revenue Code.
- (e) "Generally Applicable" means a requirement that is imposed uniformly as part of a Local Authority's generally applicable residential regulations, and that meets at least one of the following:
- (1) it is generally applicable to all residential development in the same zone; or

- (2) it is generally applicable to all ministerial residential permits in the jurisdiction; or it is applied uniformly to all new residential construction of a similar building type.
- (f) “Housing Unit” means a residential dwelling that is self-contained, providing areas for living, sleeping, cooking, and sanitation for one household. This includes apartments, townhomes, and single-family residences.
- (g) “Local Authority” means a city, county, city and county, or other local jurisdiction with authority to approve land use, zoning, subdivision, site plan, design review, building permit, or other development approvals for a Project.
- (h) “Mature Trees” means trees on the Development Site that qualify as mature based on specific criteria: a minimum trunk diameter of 12 inches measured at 4.5 feet above ground level, or trees that have reached a height of 35 feet or more.
- (i) “Ministerial Review” means a nondiscretionary approval process based solely on clear and measurable standards that do not involve personal or subjective judgment, without a public hearing or other discretionary review.
- (j) “Mixed-Use Development” means a project that includes both Residential Use and Ancillary Uses.
- (k) “Net Habitable Square Feet” means the total floor area of a building that is finished, heated, and fully enclosed, excluding unheated spaces like garages, parking areas, and unfinished attics or basements.
- (l) “Project” means any proposed development, construction, conversion, or renovation on a Development Site that includes one or more Housing Units and may include Ancillary Uses.
- (m) “Project Entity” means a limited partnership, limited liability company, joint venture, or other legal entity formed to own, lease, finance, develop, or operate a Project, including entities used for tax credit financing or other public or private investment.
- (n) “Residential Use” means the use of land or a building, or any portion thereof, for one or more Housing Units, together with common areas, hallways, lobbies, residential amenities, management offices, and other spaces incidental to residential occupancy. Residential Use includes attached or detached Housing Units, whether rental or owner-occupied.

#### **Section 4. Eligibility**

- (a) Projects shall be controlled or sponsored by a Faith-Based Organization, either directly or through a Project Entity. A Faith-Based Organization shall demonstrate site control through fee ownership or a long-term lease, including a ground lease, of no less than 55 years. A Project shall qualify under this Section if the Faith-Based Organization owns, leases, or ground-leases the Development Site to a Project Entity and retains material

approval rights over the Project consistent with the Faith-Based Organization's mission and continued operations on or adjacent to the site.

- (b) Affiliated subsidiaries, nonprofit affiliates, and Project Entities shall be eligible, provided that the Faith-Based Organization satisfies the site control requirements of this Section and is a controlling or sponsoring party to the Project.
- (c) Projects shall be located on a Development Site in zones permitting residential, commercial, institutional, and civic uses, including but not limited to single-family, duplex, and multi-family zones.
  - (1) Development Sites situated in zones primarily designated for industrial purposes are excluded, except where residential uses are expressly permitted under the applicable municipal zoning regulations for such industrial areas
- (d) Projects qualifying as Mixed-Use Developments shall include a combination of Residential Use and Ancillary Uses. A minimum of 50 percent of Net Habitable Square Feet shall be dedicated to Residential Uses for Mixed-Use Developments.
- (e) Projects shall comply with all applicable building, fire, health and life safety codes.
- (f) Projects shall comply with the federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq., and all other applicable federal and state nondiscrimination laws.

## **Section 5. Preemption**

- (a) This Act shall preempt any local zoning restriction, ordinance, policy, condition, guideline, or other requirement that conflicts with its provisions, and no Local Authority shall enforce any contradictory rule.
- (b) A Local Authority shall not impose any condition, fee, or discretionary requirement on a Project authorized under this Act beyond those that would apply to a comparable by-right project under generally applicable standards.
- (c) A Local Authority shall not apply a regulation or policy specifically to Projects authorized under this Act if the regulation or policy reduces otherwise applicable development allowances, adds regulatory burdens, or alters project eligibility. Any local measure that conflicts with this Act is invalid and unenforceable.

## **Section 6. Base Incentives and Development Standards**

- (a) A Project on a Development Site that satisfies Section 4 shall be entitled to a density of at least thirty (30) dwelling units per acre, notwithstanding any underlying zoning restriction.
  - (1) Each component of any density calculation, including base density and any bonus density, resulting in fractional units shall be separately rounded up to the next whole number.

- (b) If a Local Authority allows greater residential density or building height on the Development Site or an adjoining parcel, the Project shall be entitled to the greatest density and building height otherwise allowed on either parcel.
- (c) Projects on a qualified Development Site shall be permitted a height increase of up to one story or 15 feet above the highest height limit allowed in the zone, and a base floor area ratio (FAR) of 2:1.
  - (1) Steeples or non-inhabitable aesthetic or decorative uses shall be permitted an additional height allowance of 15 feet.
- (d) No minimum parking requirements shall be imposed on the Residential Use component or non-residential Ancillary Uses within a Project.
- (e) Notwithstanding any other law, the Local Authority shall not impose any objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically or financially precluding a development built to at least the permitted minimum density or floor area ratio as specified in Section 6.
- (f) Notwithstanding any other law, a Local Authority may apply a zoning, subdivision, or design standard to a Project only if the standard is Generally Applicable and does not physically or financially preclude, reduce, or unreasonably delay the density, floor area ratio, height, or other development capacity authorized by this Act. Without limiting the foregoing, a Local Authority shall not impose any of the following:
  - (1) A minimum square footage for Housing Units, unit size requirements, or other dwelling-unit dimensional requirements.
  - (2) Mandatory private open space requirements, mandatory amenity requirements, or special sustainability certifications for primary dwelling units.
  - (3) A special design feature, amenity, or design mandate unrelated to health, safety, or compliance with the applicable building code.
  - (4) A maximum lot-coverage requirement, minimum landscaped-area requirement, or minimum open-space requirement that prevents the Project from achieving the density or floor area ratio authorized by this Act.

Nothing in this section shall be construed to limit requirements necessary to comply with generally applicable health and safety requirements, including fire and life safety requirements, or any limitations otherwise authorized under this Act.

## **Section 7. Review and Approval Process**

- (a) Projects that meet Eligibility criteria shall be subject to ministerial review, with objective standards applied to expedite approvals without discretionary oversight. No public hearing, protest period, discretionary review, variance, special permit, conditional use permit, or similar discretionary approval shall be required. Approval shall be based on

objective standards established in existing zoning, subdivision, and design ordinances. If no such local standards exist, ministerial approval shall be required by default.

- (b) A Local Authority shall approve or deny an application for a Project under this Act within fifteen (15) days after the application is deemed complete. If the Local Authority fails to approve or deny a completed application within that time, the application shall be deemed approved.
- (c) All building permit reviews, inspections, and approvals shall be conducted concurrently rather than sequentially. Final inspections and permits shall be issued within 60 business days of application, with any required adjustments communicated by the 30th business day.

## **Section 8. Enforcement**

- (a) No additional state-level commission approval or local implementing ordinance shall be required to implement the provisions of this Act or to process qualifying Projects under its terms. A Local Authority's failure to adopt an implementing ordinance shall not relieve that Local Authority of its obligation to comply with this Act. If a Local Authority adopts an implementing ordinance, it shall file that ordinance with the [State housing authority or agency] within thirty (30) days of adoption.
- (b) The [State housing authority or agency] shall monitor compliance with this Act. Each Local Authority shall annually report to the [State housing authority or agency], in a form prescribed by that agency, the number of housing units entitled, permitted, and issued a certificate of occupancy pursuant to this Act during the prior calendar year.
- (c) If the [State housing authority or agency] determines that a Local Authority is not in compliance with this Act, it may refer the matter to the Attorney General, who shall be empowered to take necessary actions to ensure adherence to the provisions of this Act.
- (d) An applicant or property owner aggrieved by a violation of this Act may bring an action in a court of competent jurisdiction to enforce this Act. If the applicant or property owner prevails, the court shall award reasonable attorney's fees and costs.
- (e) This Act shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, the maximum amount of housing.

## **Section 9. Severability**

- (a) If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end, the

provisions of this Act are severable. It is the intent of the legislature that this Act would have been enacted even if such invalid provision or application had not been included.

## **Section 10. Effective Date**

- (a) This Act shall take effect on January 1 of the year following enactment.

## **Appendix A. Additional Public Benefit Options and Bonus Incentives**

- (a) Projects that include an Active Ground Floor with Ancillary Uses shall receive an additional floor area ratio (FAR) bonus of 0.5.
- (b) Projects in which forty percent (40%) or more of the Housing Units contain two or more bedrooms shall qualify for:
  - (1) an additional FAR increase of 0.5;
  - (2) an additional eleven (11) feet of building height; and
  - (3) an increased density to an increased density of at least seventy-five (75) dwelling units per acre;
- (c) Up to 1,500 square feet of Active Ground Floor space intended for Ancillary uses in a Project, shall be exempt from FAR calculations.
- (d) Projects that preserve existing Mature Trees on the Development Site shall be entitled to a height bonus of 11 feet.
- (e) A Project using one or more incentives under this Appendix may combine those incentives up to a floor area ratio of 3.0 and a building height of forty-five (45) feet. Nothing in this Appendix shall reduce or limit any greater density, floor area ratio, building height, or other development entitlement available under Section 6 or local law.