



CITY OF
**PALO
ALTO**

**CITY OF PALO ALTO
CITY COUNCIL
Monday, June 02, 2025
Council Chambers & Hybrid
5:30 PM**

Agenda Item

12. LEGISLATIVE. Adoption of a Temporary, Emergency Ordinance Amending Title 18 and Title 21 to Reflect Changes in State Law in Accordance with Senate Bill 1123 and Related Direction to Staff Regarding Updates to the Land Use Element of the Comprehensive Plan. CEQA Status: Exempt Pursuant to Government Code Sections 65852.28 and 66499.41.



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City Council Staff Report

From: City Manager

Report Type: ACTION ITEMS

Lead Department: Planning and Development Services

Meeting Date: June 2, 2025

Report #:2504-4463

TITLE

LEGISLATIVE. Adoption of a Temporary, Emergency Ordinance Amending Title 18 and Title 21 to Reflect Changes in State Law in Accordance with Senate Bill 1123 and Related Direction to Staff Regarding Updates to the Land Use Element of the Comprehensive Plan. CEQA Status: Exempt Pursuant to Government Code Sections 65852.28 and 66499.41.

RECOMMENDATION

Staff recommends the City Council:

1. Adopt the attached ordinance (Attachment A) by a four-fifths majority (six affirmative votes), temporarily updating Title 18 and Title 21 of the Municipal Code in accordance with recent changes in State law.
2. Direct staff to update the Land Use Element of the Comprehensive Plan to more specifically differentiate single-family, low-, medium-, and high-density residential land use designations.

EXECUTIVE SUMMARY

This report recommends City Council adoption of a temporary, emergency ordinance amending Palo Alto Municipal Code Titles 18 and 21 to implement Senate Bill 1123, which takes effect on July 1, 2025. SB 1123 expands the Starter Home Revitalization Act to permit ministerial approval of small-scale residential subdivisions—up to 10 units—on qualifying vacant lots zoned for single-family use, subject to specific development standards and site criteria.

The proposed ordinance updates local code to reflect these standards, including provisions for minimum lot sizes, setbacks, height limits, floor area ratios, and parking. It also establishes a minimum lot size for permitting accessory dwelling units (ADUs) on subdivided parcels, while preserving local discretion to apply objective design and development standards that remain consistent with State law.

Staff further recommends that Council direct updates to the Land Use Element of the Comprehensive Plan to better differentiate between residential land use categories, in

response to recent amendments to State Density Bonus Law that affect how base density is calculated.

BACKGROUND

Senate Bill (SB) 684 (California Government Code 65852.28, 65913.4.5 and 66499.41), adopted in October 2023 and effective July 1, 2024, modified the Starter Home Revitalization Act, allowing for ministerial review of subdivisions for up to 10 units on sites zoned multi-family and meeting specific criteria. Specific criteria included, but was not limited to, a requirement that the lot is zoned for multifamily residential development, is no larger than five acres, and is not located within certain areas (e.g. flood zone). Criteria also generally included requirements that the housing development project on the lot proposed to be subdivided will contain 10 or fewer residential units and that the newly created parcels are no smaller than 600 square feet. On April 7, 2025, the City Council adopted an ordinance implementing SB 684. No projects have been proposed in accordance with SB 684.

SB 1123 (California Government Code Section 65852.28 and 66499.41) adopted September 19, 2024, and effective July 1, 2025, expands existing law under the Starter Home Revitalization Act to include vacant lots zoned for single-family residential development that are no larger than 1.5 acres and that meet other specific criteria. SB 684 and SB 1123 are intended to facilitate the development of smaller-scale ownership housing, often referred to as “missing middle” housing. The legislation limits the average size of dwelling units to 1,750 habitable square feet and streamlines the subdivision process, allowing for the individual sale of units.

To the best of staff’s knowledge there are approximately 20 vacant lots in the R-1, RE, RMD, and R2 zones that would be potentially eligible to utilize SB 1123, approximately half of which are under 0.5 acres. SB 684 and 1123 authorize local jurisdictions to adopt implementing ordinances that may impose objective design standards and other regulations, so long as they remain consistent with state law and do not preclude development at the “Mullins” density (30 du/ac). Staff is aware of one property owner who has expressed potential interest in utilizing SB 1123.

ANALYSIS

The following are changes proposed to Title 18 and Title 21 of the Zoning Ordinance to align the code with State law and to execute local authority in accordance with State law.

Title 18

The attached temporary, emergency ordinance amends Palo Alto Municipal Code (PAMC) Chapter 18.42 to add a new subsection (18.42.220). The proposed code section sets forth the applicability of these State laws, clarifies the application process, and indicates the development standards and general requirements that would apply. The proposed ordinance generally refers to State law rather than setting forth the nuances of the State regulations, except where the City is provided discretion. Generally, the State law applies to the following sites:

- Sites zoned for Multi-family development and meeting the following criteria:
 - The lot is no larger than five acres and is substantially surrounded by qualified urban uses.¹
- Sites zoned for Single-family development and meeting the following criteria:
 - The lot is no larger than 1.5 acres and is substantially surrounded by qualified urban uses; and
 - The lot is vacant.²

Additionally, the law does not apply to the site if the site:

- Is located on Prime Farmland or Farmland of Statewide importance;
- Contains wetlands;
- Is located in a Very High Fire Hazard Severity Zone;
- Is a hazardous waste site that is listed pursuant to Section 65962.5 (Cortese list), except in certain instances;
- Is within a delineated earthquake fault zone; or
- Is within a special flood hazard area subject to inundation by the one-percent annual chance flood (100-year flood), except in certain instances.

The lists above are not exhaustive and are intended to provide the general parameters of the State law for Council and the public's benefit. California Government Code Section 65852.28, as amended in accordance with SB 1123, provides additional details and nuanced exceptions. Key site and development standards set forth in the State law with respect to the future development includes the following:

- *Parcel Size:*
 - For sites zoned for multi-family development, the newly created parcels are no smaller than 600 square feet. [Already addressed in PAMC Chapter 21.11]
 - For sites zoned for single-family development the newly created parcels are no smaller than 1,200 square feet.
- *Height:* For development on a site zoned single-family, the City may enforce a maximum height limit that is no less than that of the underlying zone district.
- *Setbacks:* Minimum Setbacks shall be no more than four feet from the original side and rear lot lines except that no setback shall be required for an existing structure, In addition, the setback between units shall be no greater than that required by the Building Code.
- *Floor Area Ratio:*

¹ Where substantially surrounded is defined in section 21072 of the public resources code and qualified urban use is defined in paragraph (2) of subdivision (a) of section 21159.25 of the public resources code

² Where vacant is defined as set forth in California Government Code Section 66499.41 as having no permanent structure, unless the permanent structure is abandoned and uninhabitable and excluding other specific circumstances such as where any structure on the site is subject to deed restriction.

- For a housing development project consisting of three to seven units: no less than 1.0: 1 floor area ratio;
- For a housing development project consisting of eight to ten units: no less than 1.25:1 floor area ratio.
- *Density*: Minimum density is 20 du/ac, or two-thirds of the maximum density specified in the zoning code, whichever is greater.
- *Parking*: Parking at no less than one space per unit unless there is a car share vehicle within one block of the parcel, or the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, in which case no parking can be required. The City cannot mandate that the parking be a covered space.

Within these parameters, the City is authorized to adopt objective development and design standards. Projects will be required to comply with these standards, so long as the standards do not physically prohibit a development built at a density of 30 du/ac. Thus, although SB 1123 generally permits more density than typically allowed, the City appears to retain control over design.

In addition, SB 1123 allows the local jurisdiction to make a determination as to whether accessory dwelling units or junior accessory dwelling units would be permitted on lots subdivided in accordance with this provision. The law specifies that if the local jurisdiction chooses to allow for one or more (J)ADUs to be constructed, these units would not count toward the 10-unit limit, though they would count toward the minimum density requirement. The draft ordinance in Attachment A allows for up to one ADU or JADU on any resulting lot created through this code provision only if the lot size is 2,400 square feet or greater. This threshold was selected as a midway point between the 1,200 square foot lot size permitted by SB 1123 and the 6,000 square foot lot size that is standard in the R-1 district. However, Council in its discretion may choose a different threshold, may choose to allow up to three ADUs (one attached ADU, one detached ADU, and one JADU) to be constructed, or may choose to prohibit ADU/JADUs on resulting parcels altogether. Notably, although the law theoretically applies to lots up to 1.5 and 5 acres in size, if the Council chooses to prohibit ADUs/JADUs, an applicant would only be able to comply with both the 10-unit limit and a 20 du/ac minimum density requirement by utilizing a site of 0.5 acres or smaller. This, in turn, may lead applicants to look to other state laws, such as State Density Bonus Law, which could result in more waivers of development and design standards.

Title 21

The draft ordinance in Attachment B also amends Title 21 of the PAMC to amend chapter 21.11, which implemented SB 684 in a minimal fashion. These amendments clarify the application process and indicate the development standards and general requirements that apply to subdivisions proposed under this State law. Adoption of the ordinance in this case will ensure that the fees that apply to staff level review of a subdivision map would also apply to this mapping process as the level of effort to review for compliance with the municipal code and

subdivision map act is consistent regardless of whether the process is considered ministerial or discretionary. It also helps to clearly set forth the reduced timelines that apply.

Direction Regarding Comprehensive Plan Land Use Designations

In the process of discussing SB 1123 with the interested property owner, staff were alerted to a potential interaction between the City's Comprehensive Plan land use designations and State Density Bonus Law that suggests the need for updates to the Land Use Element. In short, State Density Bonus Law was recently amended to define "base density" as the highest density allowed in any regulation applicable to a property, including zoning, a specific plan, or the general plan. In essence, this means that lower density zones within a land use designation can be developed at the highest density permitted in the land use element (e.g. the R-20 zone will be treated as having a base density of 40 du/ac). To address this, staff recommends that the Council direct the preparation of amendments to the Comprehensive Plan land use designations that better differentiate between single-family, low-, medium-, and high-density residential land uses.

POLICY IMPLICATIONS

The proposed ordinance updates local regulations to align with SB 1123 and SB 684, maintaining consistency with State law while incorporating locally permitted standards. SB 1123 establishes minimum densities, floor area ratios, and limitations on development standards that differ from those typically applied to surrounding properties. Where discretion is allowed, staff has generally proposed standards that reflect existing City policies as possible. Council may choose to adjust these standards—such as allowing greater heights, smaller setbacks, or smaller lot sizes—based on policy considerations and local context.

With respect to accessory dwelling units, the draft ordinance allows one (J)ADU per resulting lot if the lot is at least 2,400 square feet in size. This threshold is double the State's minimum lot size and just under half of the City's standard for R-1 parcels. Council may consider alternate approaches, including prohibiting (J)ADUs, allowing more than one per lot, or setting a different minimum lot size. If (J)ADUs are prohibited, projects on larger parcels may not be able to meet the State's minimum density requirement due to the 10-unit cap, which could limit the application of SB 1123 on such sites.

Staff also recommends that the Council consider directing updates to the Land Use Element of the Comprehensive Plan to more clearly differentiate among residential land use categories. This would respond to recent changes in State Density Bonus Law that define "base density" as the highest density allowed under any applicable regulation, including general plan land use designations. Greater clarity may reduce interpretive conflicts when applying zoning or density bonus provisions.

If Council directs such amendments, staff resources may need to be reallocated from projects not directly related to State law compliance or Housing Element implementation. Other efforts, such as the bird-safe glass ordinance and stream corridor policies, would continue but may be scheduled behind this work based on available capacity.

FISCAL/RESOURCE IMPACT

There is no fiscal impact associated with this action.

STAKEHOLDER ENGAGEMENT

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper at least ten days in advance of the public hearing. Notice of a public hearing for this project was published in the Daily Post on May 23, 2025, which is 10 days in advance of the meeting. As of the writing of this report, no public comments have been received on the draft ordinance.

ENVIRONMENTAL REVIEW

The adoption of this ordinance is not a project subject to the California Environmental Quality Act, under CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that adoption of the ordinance will not have a significant impact on the environment.

ATTACHMENTS

Attachment A: Draft Temporary Urgency Ordinance

APPROVED BY:

Jonathan Lait, Planning and Development Services Director

Ordinance No. ____

Temporary Emergency Ordinance of the Council of the City of Palo Alto
Amending Title 18 (Zoning) of the Palo Alto Municipal Code and Title 21
(Subdivisions and Other Divisions of Land) to Implement SB 684 and SB 1123

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. On October 11, 2023, the Governor of the State of California signed Senate Bill (SB) 684, effective July 1, 2024. SB 684 requires a local agency to ministerially consider a parcel map or a tentative and final map, as well as a housing development project proposing a subdivision resulting in 10 or fewer residential units on lots meet certain minimum parcel size and density requirement, where the lot to be subdivided is zoned for multifamily residential development, as described in the bill.
- B. On September 19, 2024, the Governor signed SB 1123, effective July 1, 2025. SB 1123 expands SB 684 to allow the same provisions to apply to sites zoned single family and meeting other specific criteria.
- C. SB 684 and SB 1123 create a 60-day timeframe approval or denial of a subdivision application and housing development application under these regulations.
- D. SB 684 and SB 1123 authorize cities to adopt an ordinance to implement their provisions.
- E. There is insufficient time for consideration of and recommendation on the necessary amendments to Title 18 by the Planning and Transportation Commission (PTC) prior to action by the City Council. The Council therefore declares that a temporary ordinance, pursuant to Palo Alto Municipal Code (PAMC) Section 18.80.090 is an appropriate measure, pending consideration of a permanent ordinance by the PTC.
- F. The City Council declares that this emergency ordinance is necessary as an emergency measure to preserve the public, peace, health, or safety to provide guidance and clarity to applicants, staff, and the public regarding the process and standards that will apply for projects seeking to utilize SB 684 and SB 1123 and to ensure orderly and harmonious development thereunder.

SECTION 2. Section 18.42.220 (Standards for Up to Ten Units Pursuant to Senate Bills 684 and 1123) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby added as follows:

18.42.220 Standards for Up to Ten Units Pursuant to Senate Bills 684 and 1123

(a) Purpose.

This section sets forth regulations for housing development projects of up to ten units on a lot that is subdivided pursuant to Government Code Section 66499.41 and Palo Alto Municipal Code Chapter 21.11. This section implements Senate Bills 684 (2023) and 1123 (2024), as codified in Government Code Section 65852.28, 65913.4.5, and 66499.41. In the event of a conflict between the provisions of this section and the generally applicable regulations of the sites' respective zone district, or the regulations contained in Chapters [18.52-18.80](#), inclusive, the more permissive provision shall prevail.

(b) Applicability.

This Section shall apply to parcels zoned for multi-family use and to vacant parcels zoned for single-family use that meet the criteria set forth in Government Code Section 65852.28.

(c) Application Process.

- (1) The Director is authorized to promulgate regulations, forms, and/or checklists setting forth application requirements for the development of dwelling units under this section.
- (2) The City shall ministerially approve or disapprove an application pursuant to this section.
- (3) The Director of Planning shall consider and approve or deny an application for a proposed housing development pursuant to this section within 60 days from the date the city receives a completed application. If the director has not approved or denied the completed application within 60 days, the application shall be deemed approved.
- (4) If the director denies an application for a proposed housing development pursuant to this section, the director shall, within 60 days of receipt of the completed application, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

(d) Development Standards.

- (1) A project proposing a small lot subdivision of up to 10 dwelling units on a parcel in any zone district pursuant to California Government Code Section 65852.28 shall be subject to the development standards set forth in the respective zone district, except as otherwise provided herein.
- (2) An applicant may request waiver of a development or design standard to the extent it physically precludes development at a density of 30 dwelling units per acre, except that maximum height may not be waived for a project proposed on a lot zoned single-family use.
- (3) The average total area for the proposed housing units shall not exceed 1,750 net habitable square feet, as defined in Government Code section 66499.41.
- (4) The height of the proposed structure shall not exceed the height of the underlying zone district.
- (5) Setbacks from side and rear property lines, including street-side property lines, shall be no less than four feet, except in the case of existing non-complying structures or structures reconstructed in the same location and to the same dimensions as an existing structure, in which case existing setbacks less than four feet may be maintained. No setback is required from an internal lot line newly created pursuant to Chapter 21.11, for adjacent or connected structures separated by the new lot line, provided that the structures meet building code safety standards.

- (6) At least one parking space shall be required per unit except that no parking shall be required when the parcel is located within: one-half mile walking distance of a high-quality transit corridor or a major transit stop; or one block of a fixed location car share vehicle. Provided parking shall meet the requirements set forth in 18.54 for parking design except that parking may be covered or uncovered. Parking for accessory or junior accessory dwelling units shall be provided in accordance with Chapter 18.09.
- (7) Development under this code shall comply with the objective design standards set forth in PAMC Chapter 18.24 or, for development not exceeding two stories, the applicant may elect to comply with the objective design standards adopted by the City Council for two-story development.
- (8) For a housing development project consistency of three to seven units, inclusive, the floor area ratio shall be no more than 1.0
- (9) For a housing development project consisting of 8 to ten units, inclusive, the floor area ratio shall be no more than 1.25.
- (10) Up to one ADU or one JADU may be constructed on any resulting lot greater than or equal to 2,400 square feet in size.
- (11) The Director of Public Works may promulgate standards for adjacent public improvements, such as curb cuts and sidewalks, in relation to development pursuant to this section.

(e) General Requirements.

- (1) A maximum of 10 units, excluding accessory and junior accessory dwelling units, may be constructed on no more than 10 parcels created by a small lot subdivision under 21.11.
- (2) Projects developing more than two units shall comply with the citywide affordable housing requirements as set forth in PAMC Section 16.65
- (3) Each unit shall have a permanent street address.

SECTION 3. Chapter 21.11 (Streamlined Subdivisions Resulting in Ten or Fewer Parcels) of Title 21 (Zoning) of the Palo Alto Municipal Code is hereby amended as follows (additions underlined and deletions ~~struck through~~):

21.11.010 Purpose.

This chapter implements California Government Code Section 66499.41 by establishing regulations for the ministerial subdivision of a lot resulting in ten or fewer parcels~~up to ten lots~~.

21.11.020 Applicability.

This chapter applies only to proposed subdivisions that meet all of the requirements of California Government Code Section 66499.41. Depending on the number of parcels to be created, a~~A~~ tentative map and final map or preliminary parcel map and parcel map shall be required for all subdivisions under this chapter, ~~regardless of the number of parcels created.~~

21.11.030 Review.

Qualifying ~~tentative~~ map applications shall be reviewed and processed ministerially in accordance with California Government Code Section 66499.41. Final maps and parcel maps shall be

reviewed and processed in accordance with [Chapter 21.16](#), except that a final map under this section may be approved by the City Engineer and Director of Planning and Development Services.

~~21.11.040 – Objective Subdivision Standards.~~

~~The Director of Planning and Development Services may adopt administrative regulations to create objective subdivision standards or clarify existing standards that apply to subdivisions under this section.~~

21.11.040 General Requirements.

- (a) The minimum size for a parcel created on a lot zoned for multi- family use is 600 square feet.
- (b) The minimum size for a parcel created on a vacant lot zoned for single-family use is 1,200 square feet.
- (c) Where existing dwelling units on the property are to remain, no lot line may be created under this Chapter in a manner that would bisect any structure or that would result in any existing dwelling unit being alienable separate from the title to any other existing dwelling unit on the lot.
- (e) Utility easements shall be shown on the parcel map, and recorded prior to, or concurrent with map recordation.
- (f) A covenant necessary for maintenance of stormwater treatment facilities shall be recorded prior to, or concurrent with map recordation.
- (g) Existing driveways to be demolished shall follow the procedure(s) in Section 12.08.090.
- (e) A maintenance agreement shall be recorded to ensure shared maintenance of any shared access easements, private streets, stormwater treatment, landscaping and private utilities, prior to map recordation.
- (f) Where Title 21 requires a private street as indicated in 21.20.240 based on the number of lots to be created, the private street shall meet the requirements set forth for private streets in this title. The area of the proposed private street easement shall be deducted from the lot area, as detailed in 18.04.030(85).

~~21.11.050 – Accessory Dwelling Units Prohibited.~~

~~Accessory dwelling units and junior accessory dwelling units shall not be permitted on lots created pursuant to this section.~~

21.11.050 Application and Review of Streamlined Subdivisions Resulting in Ten or Fewer Parcels.

- (a) The director of planning is authorized to promulgate regulations, forms, and/or checklists setting forth application requirements for a streamlined subdivision under this Chapter.
- (b) All maps must be prepared by a registered civil engineer or licensed land surveyor in accordance with Government Code sections 66444 – 66450 and this Chapter. Unless more specific regulations are adopted by the director of planning, maps shall be in the form and include all of the information required of a Preliminary Parcel Map or Tentative Map by [Chapter 21.12](#), as well as any additional information required of a Parcel or Final Map by [Chapter 21.16](#). In addition, the face of the Parcel Map or Final Map shall contain a declaration that:

- (1) Each lot created by the map shall be used solely for residential dwellings.
- (2) One Accessory or Junior Accessory Dwelling Unit may be permitted only on lots greater than or equal to 2,400 square feet in size.
- (3) A lot created under this Chapter shall not be further subdivided.
- (c) Upon receipt of a application for a streamlined subdivision, the director of planning shall transmit copies to the city engineer, chief building official, director of utilities, chief of police, fire chief, director of transportation, and such other departments of the city, and any other agencies, as may be required by law or deemed appropriate.
- (d) The director of planning shall cause a notice of the pending application to be posted at the site of the proposed streamlined subdivision and for notice to be mailed to owners and residents of property within 600 feet of the property.
- (e) The director of planning shall ministerially review and approve a preliminary parcel map or tentative map application that meets all requirements of this Chapter. The director of planning shall deny an application that does not meet any requirement of this Chapter.
- (f) The director of planning shall consider and approve or deny an application for a streamlined subdivision within 60 days from the date the City receives a completed application. If the director has not approved or denied the completed application within 60 days, the application shall be deemed approved.
- (g) If the director denies an application for a streamlined subdivision, the director shall, within 60 days of receipt of the completed application, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.
- (h) The Director of Planning shall determine the appropriate fee required for an application for streamlined subdivision, which may be the fee currently established for a Preliminary Parcel Map or Parcel Map.

SECTION 4. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. The Council finds that the Ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant California Government Code Sections 65852.28 and 66499.41.

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SECTION 6. This ordinance shall be effective immediately upon adoption by a four-fifths vote of the City Council and shall expire on June 2, 2026, unless extended by the City Council or superseded by replacement legislation.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

City Attorney or Designee

City Manager

Director of Planning and
Development Services