
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2023 - 2024 Regular

Bill No: AB 894
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Consultant: Peterson

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Tax Levy: No
Fiscal: Yes

PARKING REQUIREMENTS: SHARED PARKING

Requires public agencies to allow developments to count underutilized and shared parking spaces toward a parking requirement imposed by the agency.

Background

Planning and approving new housing is mainly a local responsibility. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Planning and Zoning Law. State law provides additional powers and duties to cities and counties regarding land use. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all areas covered by the plan. A general plan must include specified mandatory “elements,” including a housing element that establishes the locations and densities of housing, among other requirements. Cities’ and counties’ major land use decisions—including most zoning ordinances and other aspects of development permitting—must be consistent with their general plans. The Planning and Zoning Law also establishes a planning agency in each city and county, which may be a separate planning commission, administrative body, or the legislative body of the city or county itself. Cities and counties must provide a path to appeal a decision to the planning commission and/or the city council or county board of supervisors. Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice, and may require additional approvals.

Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

Parking standards. Cities and counties generally establish requirements for a minimum amount of parking developers must provide for a given facility or use, known as parking minimums or

parking ratios. Local governments commonly index parking minimums to conditions related to the building or facility with which they are associated. For example, shopping centers may have parking requirements linked to total floor space, restaurant parking may be linked to the total number of seats, and hotels may have parking spaces linked to the number of beds or rooms.

In 2019, the California Air Resources Board (CARB) reviewed over 200 municipal codes and found for nonresidential construction, an average of at least one parking space is installed for every 275 square feet of nonresidential building floor space. Accounting for the fact that approximately 60% of reviewed municipal codes already allow developers to reduce parking by an average of 30%, CARB staff estimated that between 1.4 million and 1.7 million new nonresidential parking spaces may be constructed from 2021-2024.

CARB also conducted a limited review of minimum parking requirements and found parking requirements often result in an over-supply of parking. In reviewing 10 developments in Southern California, CARB noted that while most sites built exactly the minimum parking required by the local agency, the peak parking utilization at these sites ranged from 56% to 72% at each development.

Both CARB reviews suggest the minimum requirements are too high, creating an unnecessary oversupply of parking. In response, the Legislature has enacted several policies limiting minimum parking requirements. Last year, AB 2097 (Friedman) prohibited public agencies from imposing minimum automobile parking requirements on specified residential, commercial and other developments located within one-half mile of public transit.

Research on parking and its impacts. Although challenging to quantify, parking minimums are thought to encourage automobile use. For example, in a recent journal article, (*What do Residential Lotteries Show us About Transportation Choices?*), researchers from the University of California found data from affordable housing lotteries in San Francisco provided a unique setting that effectively randomized housing assignments for housing lottery applicants. The study found “a building’s parking ratio not only influences car ownership, vehicle travel and public transport use, but has a stronger effect than public transport accessibility. Buildings with at least one parking space per unit (as required by zoning codes in most US cities, and in San Francisco until circa 2010) have more than twice the car ownership rate of buildings that have no parking... In buildings with no on-site parking, only 38% of households own a car. In buildings with at least one parking space per unit, more than 81% of households own automobiles.”

A number of sources have documented the harms associated with imposing parking requirements. Of particular interest given California’s housing challenges is parking requirements can increase the cost of building homes and make some projects infeasible, whether financially due to the cost of constructing parking or physically due to capacity limitations of some sites. For example, the City and County of San Francisco eliminated parking minimums in 2018. According to the San Francisco Planning Department:

“San Francisco eliminated mandatory parking requirements in 2018, recognizing that these requirements can lead to an oversupply of parking spaces that encourages car dependence, discourages mass transit usage, and increases the cost of housing. According to estimates by SF Planning Department, at the time parking minimums were eliminated, minimum parking rules added as much as \$50,000 to the cost of the housing unit. They undermined pedestrian safety, requiring dangerous driveways to be built in some of the most densely populated,

walkable areas of the City. Parking minimums also contributed to traffic congestion, encouraging residents to own private cars, instead of taking transit, walking, or biking.”

A recent study by Santa Clara University found the cost of garage parking to renter households is approximately \$1,700 per year, or an additional 17% of a housing unit’s rent. Others note parking requirements can reduce the number of buildable units on a site by taking up space that could be devoted to housing.

Research has documented other harms associated with parking minimums outside the housing context. According to the Turner Center for Housing Innovation:

“Parking requirements have also been linked to a variety of negative secondary impacts, in particular the environmental costs for cities. Parking contributes to the urban heat island effect and does not support any biodiversity. Land coverage by asphalt increases stormwater runoff, which raises the risk of flooding and causes higher pollution levels in freshwater systems. Chemical compounds used to seal parking lots can seep into groundwater and freshwater systems, which contributes to pollution and decreases the health of these ecosystems. Because it encourages automobile usage, parking also hinders the effectiveness and usage of alternative forms of transit (public transportation, biking, etc.), increases congestion, and causes externalities like air pollution, noise pollution, and greenhouse gas emissions.

To spur greater use of underutilized parking, and to make it easier for entities to meet minimum parking requirements, the San Francisco Bay Area Planning and Urban Research Association (SPUR) wants to require local agencies to allow underutilized parking spaces to be shared with other land uses and the public, and to count shared parking toward meeting parking requirements.

Proposed Law

Assembly Bill 894 requires a public agency to allow entities with underutilized parking to share their underutilized parking spaces with the public, public agencies, or other entities.

Underutilized parking means parking where 20% or more of a development’s parking spaces are available during the period the parking is needed by another user, group, development, or the public.

A public agency must allow parking spaces identified in shared parking agreements to count toward meeting any parking requirement for a new or existing development or use, including shared parking in underutilized spaces and in parking lots and garages that will be built as part of developments under any of the following conditions:

- The entities that will share the parking are located on the same, or contiguous, parcels;
- The sites of the entities that will share parking are separated by no more than 2,000 feet of travel by the shortest walking route; or
- The sites of the entities that will share parking are separated by more than 2,000 feet of travel by the shortest walking route, but there is a plan for shuttles or other accommodations to move between the parking and site.

Entities wanting to share parking must enter into a shared parking agreement outlining the terms under which parking will be shared.

When determining the number of parking spaces that can be reasonably shared between different uses, a public agency must accept a parking analysis using peer-reviewed methodologies developed by a professional planning association, such as the methodology established by the Urban Land Institute, National Parking Association, and the International Council of Shopping Centers.

Public agencies cannot require the curing of preexisting deficits of the number of parking spaces as a condition for approval of the sharing of underutilized parking spaces. An agency cannot deny a shared parking agreement solely on the basis that it will temporarily reduce or eliminate the number of parking spaces available at the entity sharing underutilized parking. For a development project in which a designated historical resource is being converted or adapted, a public agency shall allow the project applicant to meet minimum parking requirements through the use of offsite shared parking.

The measure provides its provisions cannot be used to reduce, eliminate, or preclude the enforcement of any requirement imposed on a development to provide parking spaces accessible to persons with disabilities that would have otherwise applied to the development.

Public agencies, private landowners, or lessors must examine the feasibility of shared parking agreements to replace new parking construction or limit the number of new parking spaces that will be constructed:

- When state funds are being used on a proposed new development;
- Before a parking structure or surface parking lot is developed using public funds.

AB 894 provides it must not be interpreted to require parking be offered at no or reduced cost.

AB 894 makes findings and declarations to further its intent, and defines its terms.

State Revenue Impact

No estimate.

Comments

1. **Purpose of the bill.** According to the author, “Assessments recently quantified the number of parking spaces in the state’s most populous regions and found abundant parking even in areas where parking is perceived to be in short supply. The results of these assessments confirm that what is often lacking in many communities is not parking, but rather tools and regulations that allow existing parking to be shared more effectively. At the same time, new technologies make it easier than ever to share existing parking resources, reducing the need to build new parking.

“Unfortunately, many jurisdictions have not updated their policies to reflect evidence on the benefits of shared parking, and the existence new tools that make it easy to manage shared parking resources. This bill requires that jurisdictions accept shared parking as a legitimate strategy to meet parking demands in a manner that supports more affordable development and

avoids wasteful excessive parking construction which contributes to congestion, greenhouse gas emissions, and neighborhood safety.”

2. Home rule. Local officials are elected to represent the interests of all their constituents and to look broadly at how new development might impact their community. For example, concerns over the encroachment of wildfire may prompt some local governments to impose parking requirements to ensure streets are open for evacuation and emergency response. Some public agencies have developed policies for multiple entities to share parking spaces and count those parking spaces when determining whether a development meets minimum parking requirements. For example, the City of San Diego has a form available on its website for entities that want to request all or a portion of parking to be permitted off-site subject to certain restrictions. Regardless of the decisions local officials have made regarding shared parking agreements, AB 894 requires all public agencies to allow entities with underutilized parking to share their underutilized parking spaces. It also requires all public agencies to examine the feasibility of shared parking agreements to replace new parking construction or limit the number of new parking spaces that will be built when the project uses public funds. Should the Legislature require all public entities to adopt shared parking agreement policies?

3. Who makes the call? AB 894 requires public agencies to allow entities with underutilized parking to share their underutilized parking spaces based on a shared parking agreement. While the measure requires entities sharing parking to enter into an agreement that outlines the terms under which parking will be shared, it does not require those entities to submit their agreement to the relevant public agency, or receive its approval. However, some provisions appear to provide public agencies with the power to approve or deny these agreements. For example, AB 894 says a public agency cannot deny a shared parking agreement because it will temporarily reduce or eliminate the number of parking spaces available at the entity sharing underutilized parking. It also provides, when determining the number of parking spaces that can be reasonably shared, a public agency must accept certain types of parking analyses. It is unclear whether AB 894 intends to allow local agencies to decide whether to approve or modify these agreements, or simply accept them. The Committee may wish to clarify whether public agencies should have to approve these agreements, or simply be notified of their existence.

4. In the public eye. Shared parking agreements could have impacts on other business and properties that surround parking lots not subject to the agreement. However, AB 894 does not provide a process for the public to weigh in on an agreement before a public agency approves. Without a notice requirement or a public meeting, they won't find out about the changes until the agreement goes into effect. On the other hand, a shared parking agreement does not affect the parking spaces available to parties not subject to the agreement. The Committee may wish to consider whether shared parking agreements should be subject to greater public scrutiny.

5. An alternative approach. To clarify the role public agencies play in approving shared parking agreements, and give the public an opportunity to weigh in on these agreements, the Committee may wish to consider amending the bill to:

- Require a public agency to allow entities with underutilized parking to share their underutilized parking spaces, if those entities submit a shared parking agreement to the public agency.
- Require public agencies to accept shared parking agreements that include a parking analysis using certain peer-reviewed methodologies.

- For shared parking agreements that do not include a peer-reviewed parking analysis, require the public agency to notify nearby property owners of the proposed agreement, and hold a public meeting if a property owner requests it. In these cases, the public agency could decide whether to approve the agreement, and determine the number of spaces that can counted towards minimum parking requirements.
- Provide these requirements do not apply to shared parking agreements entered into before January 1, 2024.
- Define shared parking agreements.

6. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 894 imposes new duties on local officials, Legislative Counsel says that it imposes a new state mandate. AB 894 disclaims the state's responsibility for providing reimbursement by citing local governments' authority to charge for the costs of implementing the bill's provisions.

7. Charter city. The California Constitution allows cities that adopt charters to control their own "municipal affairs." In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define "municipal affairs," the courts determine whether a topic is a municipal affair or an issue of statewide concern. AB 894 says that its statutory provisions apply to charter cities. To support this assertion, the bill includes a legislative finding that preserving land and lowering the cost of housing production by sharing parking is a matter of statewide concern.

8. Related legislation. AB 1308 (Quirk-Silva & Friedman) prohibits a public agency from increasing the minimum parking requirement that applies to a single-family residence as a condition of approval of a project to remodel, renovate, or add to a single-family residence, provided the project does not cause the residence to exceed any maximum size limit imposed by the applicable zoning regulations. The bill is also scheduled for the Committee's June 21st meeting.

9. Coming and going. The Senate Rules Committee ordered a double-referral of AB 894: first, to the Governance and Finance Committee to consider its impact on local governments, and second to the Housing Committee.

Assembly Actions

Assembly Local Government Committee:	5-2
Assembly Housing and Community Development Committee:	6-0
Assembly Appropriations Committee:	12-3
Assembly Floor:	62-10

Support and Opposition (6/9/23)

Support:

Civicwell (formally the Local Government Commission) (Sponsor)
 Spur (Sponsor)
 City of Gilroy Council Member Zach Hilton
 350 Bay Area Action
 Active San Gabriel Valley

American Planning Association, California Chapter
California Apartment Association
California Community Builders
California Yimby
Council of Infill Builders
East Bay Yimby
Grow the Richmond
How to Adu
Monterey Bay Economic Partnership
Mountain View Yimby
Move LA
Napa-solano for Everyone
Natural Resources Defense Council (NRDC)
Northern Neighbors
Parkade
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco Yimby
San Luis Obispo Yimby
Santa Cruz Yimby
Santa Rosa Yimby
Seamless Bay Area
South Bay Yimby
Southside Forward
Streets for All
Streets for People
Transform
Urban Environmentalists
Ventura County Yimby
Yimby Action

Opposition: City of Eastvale
New Livable California DbA Livable California

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