

AMENDED IN ASSEMBLY APRIL 24, 2025

AMENDED IN ASSEMBLY MARCH 17, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 87

Introduced by Assembly Member Boerner

January 6, 2025

An act to amend Sections 65589.5, 65912.101, 65912.123, 65912.124, 65915, and 65915.3 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 87, as amended, Boerner. Housing development: density bonuses: ~~mixed-use developments: short-term rentals: developments.~~

Existing law, commonly referred to as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions, as specified, if the developer agrees to construct, among other options, specified percentages of units for lower income households or very low income households, and meets other requirements. *Existing law requires the number of incentives or concessions a qualifying developer receives to be pursuant to a certain formula based on the total number of units in the housing development, as specified.* Existing law defines “housing development,” for these purposes, to mean a development project for 5 or more residential units, including mixed-use developments.

~~This bill would define “mixed-use development” for purposes of the Density Bonus Law to mean a development with at least 70% of the square footage of a proposed development designated for residential uses and no square footage of the development designated for use as a~~

~~hotel, motel, bed and breakfast inn, or other visitor-serving purposes. The bill would also prohibit an applicant from being eligible for a density bonus or any other incentives or concessions under the Density Bonus Law, unless the applicant agrees to, and the city, county, or city and county ensures, the commitment to record a land use restriction or covenant providing that a unit of development may not be listed as a short-term rental unit, as defined. By imposing these requirements on local agencies with respect to density bonuses, this bill would impose a state-mandated local program.~~

This bill would prohibit an incentive or concession granted for a mixed-use development containing a hotel, motel, bed and breakfast inn, or other visitor-serving purpose from applying to the portion of the proposed development containing hotel, motel, bed and breakfast inn, or other visitor-serving purpose use.

This bill would also make related conforming changes to various other laws to update cross-references to the Density Bonus Law.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65589.5 of the Government Code is
- 2 amended to read:
- 3 65589.5. (a) (1) The Legislature finds and declares all of the
- 4 following:
- 5 (A) The lack of housing, including emergency shelters, is a
- 6 critical problem that threatens the economic, environmental, and
- 7 social quality of life in California.
- 8 (B) California housing has become the most expensive in the
- 9 nation. The excessive cost of the state's housing supply is partially
- 10 caused by activities and policies of many local governments that
- 11 limit the approval of housing, increase the cost of land for housing,

1 and require that high fees and exactions be paid by producers of
2 housing.

3 (C) Among the consequences of those actions are discrimination
4 against low-income and minority households, lack of housing to
5 support employment growth, imbalance in jobs and housing,
6 reduced mobility, urban sprawl, excessive commuting, and air
7 quality deterioration.

8 (D) Many local governments do not give adequate attention to
9 the economic, environmental, and social costs of decisions that
10 result in disapproval of housing development projects, reduction
11 in density of housing projects, and excessive standards for housing
12 development projects.

13 (2) In enacting the amendments made to this section by the act
14 adding this paragraph, the Legislature further finds and declares
15 the following:

16 (A) California has a housing supply and affordability crisis of
17 historic proportions. The consequences of failing to effectively
18 and aggressively confront this crisis are hurting millions of
19 Californians, robbing future generations of the chance to call
20 California home, stifling economic opportunities for workers and
21 businesses, worsening poverty and homelessness, and undermining
22 the state's environmental and climate objectives.

23 (B) While the causes of this crisis are multiple and complex,
24 the absence of meaningful and effective policy reforms to
25 significantly enhance the approval and supply of housing affordable
26 to Californians of all income levels is a key factor.

27 (C) The crisis has grown so acute in California that supply,
28 demand, and affordability fundamentals are characterized in the
29 negative: underserved demands, constrained supply, and protracted
30 unaffordability.

31 (D) According to reports and data, California has accumulated
32 an unmet housing backlog of nearly 2,000,000 units and must
33 provide for at least 180,000 new units annually to keep pace with
34 growth through 2025.

35 (E) California's overall home ownership rate is at its lowest
36 level since the 1940s. The state ranks 49th out of the 50 states in
37 home ownership rates as well as in the supply of housing per capita.
38 Only one-half of California's households are able to afford the
39 cost of housing in their local regions.

1 (F) Lack of supply and rising costs are compounding inequality
2 and limiting advancement opportunities for many Californians.

3 (G) The majority of California renters, more than 3,000,000
4 households, pay more than 30 percent of their income toward rent
5 and nearly one-third, more than 1,500,000 households, pay more
6 than 50 percent of their income toward rent.

7 (H) When Californians have access to safe and affordable
8 housing, they have more money for food and health care; they are
9 less likely to become homeless and in need of
10 government-subsidized services; their children do better in school;
11 and businesses have an easier time recruiting and retaining
12 employees.

13 (I) An additional consequence of the state's cumulative housing
14 shortage is a significant increase in greenhouse gas emissions
15 caused by the displacement and redirection of populations to states
16 with greater housing opportunities, particularly working- and
17 middle-class households. California's cumulative housing shortfall
18 therefore has not only national but international environmental
19 consequences.

20 (J) California's housing picture has reached a crisis of historic
21 proportions despite the fact that, for decades, the Legislature has
22 enacted numerous statutes intended to significantly increase the
23 approval, development, and affordability of housing for all income
24 levels, including this section.

25 (K) The Legislature's intent in enacting this section in 1982 and
26 in expanding its provisions since then was to significantly increase
27 the approval and construction of new housing for all economic
28 segments of California's communities by meaningfully and
29 effectively curbing the capability of local governments to deny,
30 reduce the density for, or render infeasible housing development
31 projects and emergency shelters. That intent has not been fulfilled.

32 (L) It is the policy of the state that this section be interpreted
33 and implemented in a manner to afford the fullest possible weight
34 to the interest of, and the approval and provision of, housing.

35 (3) It is the intent of the Legislature that the conditions that
36 would have a specific, adverse impact upon the public health and
37 safety, as described in paragraph (2) of subdivision (d) and
38 paragraph (1) of subdivision (j), arise infrequently.

39 (4) It is the intent of the Legislature that the amendments
40 removing provisions from subparagraphs (D) and (E) of paragraph

1 (6) of subdivision (h) and adding those provisions to Sections
2 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
3 as they are substantially the same as existing law, shall be
4 considered restatements and continuations of existing law, and not
5 new enactments.

6 (b) It is the policy of the state that a local government not reject
7 or make infeasible housing development projects, including
8 emergency shelters, that contribute to meeting the need determined
9 pursuant to this article without a thorough analysis of the economic,
10 social, and environmental effects of the action and without
11 complying with subdivision (d).

12 (c) The Legislature also recognizes that premature and
13 unnecessary development of agricultural lands for urban uses
14 continues to have adverse effects on the availability of those lands
15 for food and fiber production and on the economy of the state.
16 Furthermore, it is the policy of the state that development should
17 be guided away from prime agricultural lands; therefore, in
18 implementing this section, local jurisdictions should encourage,
19 to the maximum extent practicable, in filling existing urban areas.

20 (d) For a housing development project for very low, low-, or
21 moderate-income households, or an emergency shelter, a local
22 agency shall not disapprove the housing development project or
23 emergency shelter, or condition approval in a manner that renders
24 the housing development project or emergency shelter infeasible,
25 including through the use of design review standards, unless it
26 makes written findings, based upon a preponderance of the
27 evidence in the record, as to one of the following:

28 (1) The jurisdiction has adopted a housing element pursuant to
29 this article that has been revised in accordance with Section 65588,
30 is in substantial compliance with this article, and the jurisdiction
31 has met or exceeded its share of the regional housing need
32 allocation pursuant to Section 65584 for the planning period for
33 the income category proposed for the housing development project,
34 provided that any disapproval or conditional approval shall not be
35 based on any of the reasons prohibited by Section 65008. If the
36 housing development project includes a mix of income categories,
37 and the jurisdiction has not met or exceeded its share of the regional
38 housing need for one or more of those categories, then this
39 paragraph shall not be used to disapprove or conditionally approve
40 the housing development project. The share of the regional housing

1 need met by the jurisdiction shall be calculated consistently with
2 the forms and definitions that may be adopted by the Department
3 of Housing and Community Development pursuant to Section
4 65400. In the case of an emergency shelter, the jurisdiction shall
5 have met or exceeded the need for emergency shelter, as identified
6 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
7 disapproval or conditional approval pursuant to this paragraph
8 shall be in accordance with applicable law, rule, or standards.

9 (2) The housing development project or emergency shelter as
10 proposed would have a specific, adverse impact upon the public
11 health or safety, and there is no feasible method to satisfactorily
12 mitigate or avoid the specific, adverse impact without rendering
13 the development unaffordable to low- and moderate-income
14 households or rendering the development of the emergency shelter
15 financially infeasible. As used in this paragraph, a “specific,
16 adverse impact” means a significant, quantifiable, direct, and
17 unavoidable impact, based on objective, identified written public
18 health or safety standards, policies, or conditions as they existed
19 on the date the application was deemed complete. The following
20 shall not constitute a specific, adverse impact upon the public
21 health or safety:

22 (A) Inconsistency with the zoning ordinance or general plan
23 land use designation.

24 (B) The eligibility to claim a welfare exemption under
25 subdivision (g) of Section 214 of the Revenue and Taxation Code.

26 (3) The denial of the housing development project or imposition
27 of conditions is required in order to comply with specific state or
28 federal law, and there is no feasible method to comply without
29 rendering the development unaffordable to low- and
30 moderate-income households or rendering the development of the
31 emergency shelter financially infeasible.

32 (4) The housing development project or emergency shelter is
33 proposed on land zoned for agriculture or resource preservation
34 that is surrounded on at least two sides by land being used for
35 agricultural or resource preservation purposes, or which does not
36 have adequate water or wastewater facilities to serve the project.

37 (5) On the date an application for the housing development
38 project or emergency shelter was deemed complete, the jurisdiction
39 had adopted a revised housing element that was in substantial
40 compliance with this article, and the housing development project

1 or emergency shelter was inconsistent with both the jurisdiction's
2 zoning ordinance and general plan land use designation as specified
3 in any element of the general plan.

4 (A) This paragraph shall not be utilized to disapprove or
5 conditionally approve a housing development project proposed on
6 a site, including a candidate site for rezoning, that is identified as
7 suitable or available for very low, low-, or moderate-income
8 households in the jurisdiction's housing element if the housing
9 development project is consistent with the density specified in the
10 housing element, even though the housing development project
11 was inconsistent with both the jurisdiction's zoning ordinance and
12 general plan land use designation on the date the application was
13 deemed complete.

14 (B) If the local agency has failed to identify a zone or zones
15 where emergency shelters are allowed as a permitted use without
16 a conditional use or other discretionary permit, has failed to
17 demonstrate that the identified zone or zones include sufficient
18 capacity to accommodate the need for emergency shelter identified
19 in paragraph (7) of subdivision (a) of Section 65583, or has failed
20 to demonstrate that the identified zone or zones can accommodate
21 at least one emergency shelter, as required by paragraph (4) of
22 subdivision (a) of Section 65583, then this paragraph shall not be
23 utilized to disapprove or conditionally approve an emergency
24 shelter proposed for a site designated in any element of the general
25 plan for industrial, commercial, or multifamily residential uses. In
26 any action in court, the burden of proof shall be on the local agency
27 to show that its housing element does satisfy the requirements of
28 paragraph (4) of subdivision (a) of Section 65583.

29 (6) On the date an application for the housing development
30 project or emergency shelter was deemed complete, the jurisdiction
31 did not have an adopted revised housing element that was in
32 substantial compliance with this article and the housing
33 development project is not a builder's remedy project.

34 (e) Nothing in this section shall be construed to relieve the local
35 agency from complying with the congestion management program
36 required by Chapter 2.6 (commencing with Section 65088) of
37 Division 1 of Title 7 or the California Coastal Act of 1976
38 (Division 20 (commencing with Section 30000) of the Public
39 Resources Code). Neither shall anything in this section be
40 construed to relieve the local agency from making one or more of

1 the findings required pursuant to Section 21081 of the Public
2 Resources Code or otherwise complying with the California
3 Environmental Quality Act (Division 13 (commencing with Section
4 21000) of the Public Resources Code).

5 (f) (1) Except as provided in paragraphs (6) and (8) of this
6 subdivision, and subdivision (o), nothing in this section shall be
7 construed to prohibit a local agency from requiring the housing
8 development project to comply with objective, quantifiable, written
9 development standards, conditions, and policies appropriate to,
10 and consistent with, meeting the jurisdiction's share of the regional
11 housing need pursuant to Section 65584. However, the
12 development standards, conditions, and policies shall be applied
13 to facilitate and accommodate development at the density permitted
14 on the site and proposed by the development. Nothing in this
15 section shall limit a project's eligibility for a density bonus,
16 incentive, or concession, or waiver or reduction of development
17 standards and parking ratios, pursuant to Section 65915.

18 (2) Except as provided in subdivision (o), nothing in this section
19 shall be construed to prohibit a local agency from requiring an
20 emergency shelter project to comply with objective, quantifiable,
21 written development standards, conditions, and policies that are
22 consistent with paragraph (4) of subdivision (a) of Section 65583
23 and appropriate to, and consistent with, meeting the jurisdiction's
24 need for emergency shelter, as identified pursuant to paragraph
25 (7) of subdivision (a) of Section 65583. However, the development
26 standards, conditions, and policies shall be applied by the local
27 agency to facilitate and accommodate the development of the
28 emergency shelter project.

29 (3) Except as provided in subdivision (o), nothing in this section
30 shall be construed to prohibit a local agency from imposing fees
31 and other exactions otherwise authorized by law that are essential
32 to provide necessary public services and facilities to the housing
33 development project or emergency shelter.

34 (4) For purposes of this section, a housing development project
35 or emergency shelter shall be deemed consistent, compliant, and
36 in conformity with an applicable plan, program, policy, ordinance,
37 standard, requirement, or other similar provision if there is
38 substantial evidence that would allow a reasonable person to
39 conclude that the housing development project or emergency
40 shelter is consistent, compliant, or in conformity.

1 (5) For purposes of this section, a change to the zoning ordinance
2 or general plan land use designation subsequent to the date the
3 application was deemed complete shall not constitute a valid basis
4 to disapprove or condition approval of the housing development
5 project or emergency shelter.

6 (6) Notwithstanding paragraphs (1) to (5), inclusive, all of the
7 following apply to a housing development project that is a builder's
8 remedy project:

9 (A) A local agency may only require the project to comply with
10 the objective, quantifiable, written development standards,
11 conditions, and policies that would have applied to the project had
12 it been proposed on a site with a general plan designation and
13 zoning classification that allow the density and unit type proposed
14 by the applicant. If the local agency has no general plan designation
15 or zoning classification that would have allowed the density and
16 unit type proposed by the applicant, the development proponent
17 may identify any objective, quantifiable, written development
18 standards, conditions, and policies associated with a different
19 general plan designation or zoning classification within that
20 jurisdiction, that facilitate the project's density and unit type, and
21 those shall apply.

22 (B) (i) Except as authorized by paragraphs (1) to (4), inclusive,
23 of subdivision (d), a local agency shall not apply any individual
24 or combination of objective, quantifiable, written development
25 standards, conditions, and policies to the project that do any of the
26 following:

27 (I) Render the project infeasible.

28 (II) Preclude a project that meets the requirements allowed to
29 be imposed by subparagraph (A), as modified by any density bonus,
30 incentive, or concession, or waiver or reduction of development
31 standards and parking ratios, pursuant to Section 65915, from
32 being constructed as proposed by the applicant.

33 (ii) The local agency shall bear the burden of proof of complying
34 with clause (i).

35 (C) (i) A project applicant that qualifies for a density bonus
36 pursuant to Section 65915 shall receive two incentives or
37 concessions in addition to those granted pursuant to paragraph (2)
38 of subdivision (d) of Section 65915.

39 (ii) For a project seeking density bonuses, incentives,
40 concessions, or any other benefits pursuant to Section 65915, and

1 notwithstanding paragraph (7) of subdivision (n) of Section 65915,
2 for purposes of this paragraph, maximum allowable residential
3 density or base density means the density permitted for a builder's
4 remedy project pursuant to subparagraph (C) of paragraph (11) of
5 subdivision (h).

6 (iii) A local agency shall grant any density bonus pursuant to
7 Section 65915 based on the number of units proposed and
8 allowable pursuant to subparagraph (C) of paragraph (11) of
9 subdivision (h).

10 (iv) A project that dedicates units to extremely low-income
11 households pursuant to subclause (I) of clause (i) of subparagraph
12 (C) of paragraph (3) of subdivision (h) shall be eligible for the
13 same density bonus, incentives or concessions, and waivers or
14 reductions of development standards as provided to a housing
15 development project that dedicates three percentage points more
16 units to very low income households pursuant to paragraph (2) of
17 subdivision (f) of Section 65915.

18 (v) All units dedicated to extremely low-income, very low
19 income, low-income, and moderate-income households pursuant
20 to paragraph (11) of subdivision (h) shall be counted as affordable
21 units in determining whether the applicant qualifies for a density
22 bonus pursuant to Section 65915.

23 (D) (i) The project shall not be required to apply for, or receive
24 approval of, a general plan amendment, specific plan amendment,
25 rezoning, or other legislative approval.

26 (ii) The project shall not be required to apply for, or receive,
27 any approval or permit not generally required of a project of the
28 same type and density proposed by the applicant.

29 (iii) Any project that complies with this paragraph shall be
30 deemed consistent, compliant, and in conformity with an applicable
31 plan, program, policy, ordinance, standard, requirement,
32 redevelopment plan and implementing instruments, or other similar
33 provision for all purposes, and shall not be considered or treated
34 as a nonconforming lot, use, or structure for any purpose.

35 (E) A local agency shall not adopt or impose any requirement,
36 process, practice, or procedure or undertake any course of conduct,
37 including, but not limited to, increased fees or inclusionary housing
38 requirements, that applies to a project solely or partially on the
39 basis that the project is a builder's remedy project.

1 (F) (i) A builder's remedy project shall be deemed to be in
2 compliance with the residential density standards for the purposes
3 of complying with subdivision (b) of Section 65912.123.

4 (ii) A builder's remedy project shall be deemed to be in
5 compliance with the objective zoning standards, objective
6 subdivision standards, and objective design review standards for
7 the purposes of complying with paragraph (5) of subdivision (a)
8 of Section 65913.4.

9 (G) (i) (I) If the local agency had a local affordable housing
10 requirement, as defined in Section 65912.101, that on January 1,
11 2024, required a greater percentage of affordable units than
12 required under subparagraph (A) of paragraph (11) of subdivision
13 (h), or required an affordability level deeper than what is required
14 under subparagraph (A) of paragraph (11) of subdivision (h), then,
15 except as provided in subclauses (II) and (III), the local agency
16 may require a housing development for mixed-income households
17 to comply with an otherwise lawfully applicable local affordability
18 percentage or affordability level. The local agency shall not require
19 housing for mixed-income households to comply with any other
20 aspect of the local affordable housing requirement.

21 (II) Notwithstanding subclause (I), the local affordable housing
22 requirements shall not be applied to require housing for
23 mixed-income households to dedicate more than 20 percent of the
24 units to affordable units of any kind.

25 (III) Housing for mixed-income households that is required to
26 dedicate 20 percent of the units to affordable units shall not be
27 required to dedicate any of the affordable units at an income level
28 deeper than lower income households, as defined in Section
29 50079.5 of the Health and Safety Code.

30 (IV) A local agency may only require housing for mixed-income
31 households to comply with the local percentage requirement or
32 affordability level described in subclause (I) if it first makes written
33 findings, supported by a preponderance of evidence, that
34 compliance with the local percentage requirement or the
35 affordability level, or both, would not render the housing
36 development project infeasible. If a reasonable person could find
37 compliance with either requirement, either alone or in combination,
38 would render the project infeasible, the project shall not be required
39 to comply with that requirement.

1 (ii) Affordable units in the development project shall have a
2 comparable bedroom and bathroom count as the market rate units.

3 (iii) Each affordable unit dedicated pursuant to this subparagraph
4 shall count toward satisfying a local affordable housing
5 requirement. Each affordable unit dedicated pursuant to a local
6 affordable housing requirement that meets the criteria established
7 in this subparagraph shall count towards satisfying the requirements
8 of this subparagraph. This is declaratory of existing law.

9 (7) (A) For a housing development project application that is
10 deemed complete before January 1, 2025, the development
11 proponent for the project may choose to be subject to the provisions
12 of this section that were in place on the date the preliminary
13 application was submitted, or, if the project meets the definition
14 of a builder's remedy project, it may choose to be subject to any
15 or all of the provisions of this section applicable as of January 1,
16 2025.

17 (B) Notwithstanding subdivision (c) of Section 65941.1, for a
18 housing development project deemed complete before January 1,
19 2025, the development proponent may choose to revise their
20 application so that the project is a builder's remedy project, without
21 being required to resubmit a preliminary application, even if the
22 revision results in the number of residential units or square footage
23 of construction changing by 20 percent or more.

24 (8) A housing development project proposed on a site that is
25 identified as suitable or available for very low, low-, or
26 moderate-income households in the jurisdiction's housing element,
27 that is consistent with the density specified in the most recently
28 updated and adopted housing element, and that is inconsistent with
29 both the jurisdiction's zoning ordinance and general plan land use
30 designation on the date the application was deemed complete, shall
31 be subject to the provisions of subparagraphs (A), (B), and (D) of
32 paragraph (6) and paragraph (9).

33 (9) For purposes of this subdivision, "objective, quantifiable,
34 written development standards, conditions, and policies" means
35 criteria that involve no personal or subjective judgment by a public
36 official and are uniformly verifiable by reference to an external
37 and uniform benchmark or criterion available and knowable by
38 both the development applicant or proponent and the public official
39 before submittal, including, but not limited to, any standard,
40 ordinance, or policy described in paragraph (4) of subdivision (o).

1 Nothing herein shall affect the obligation of the housing
2 development project to comply with the minimum building
3 standards approved by the California Building Standards
4 Commission as provided in Part 2.5 (commencing with Section
5 18901) of Division 13 of the Health and Safety Code. In the event
6 that applicable objective, quantifiable, written development
7 standards, conditions, and policies are mutually inconsistent, a
8 development shall be deemed consistent with the criteria that
9 permits the density and unit type closest to that of the proposed
10 project.

11 (g) This section shall be applicable to charter cities because the
12 Legislature finds that the lack of housing, including emergency
13 shelter, is a critical statewide problem.

14 (h) The following definitions apply for the purposes of this
15 section:

16 (1) "Feasible" means capable of being accomplished in a
17 successful manner within a reasonable period of time, taking into
18 account economic, environmental, social, and technological factors.

19 (2) "Housing development project" means a use consisting of
20 any of the following:

21 (A) Residential units only.

22 (B) Mixed-use developments consisting of residential and
23 nonresidential uses that meet any of the following conditions:

24 (i) At least two-thirds of the new or converted square footage
25 is designated for residential use.

26 (ii) At least 50 percent of the new or converted square footage
27 is designated for residential use and the project meets both of the
28 following:

29 (I) The project includes at least 500 net new residential units.

30 (II) No portion of the project is designated for use as a hotel,
31 motel, bed and breakfast inn, or other transient lodging, except a
32 portion of the project may be designated for use as a residential
33 hotel, as defined in Section 50519 of the Health and Safety Code.

34 (iii) At least 50 percent of the net new or converted square
35 footage is designated for residential use and the project meets all
36 of the following:

37 (I) The project includes at least 500 net new residential units.

38 (II) The project involves the demolition or conversion of at least
39 100,000 square feet of nonresidential use.

1 (III) The project demolishes at least 50 percent of the existing
2 nonresidential uses on the site.

3 (IV) No portion of the project is designated for use as a hotel,
4 motel, bed and breakfast inn, or other transient lodging, except a
5 portion of the project may be designated for use as a residential
6 hotel, as defined in Section 50519 of the Health and Safety Code.

7 (C) Transitional housing or supportive housing.

8 (D) Farmworker housing, as defined in subdivision (h) of
9 Section 50199.7 of the Health and Safety Code.

10 (3) (A) “Housing for very low, low-, or moderate-income
11 households” means housing for lower income households,
12 mixed-income households, or moderate-income households.

13 (B) “Housing for lower income households” means a housing
14 development project in which 100 percent of the units, excluding
15 managers’ units, are dedicated to lower income households, as
16 defined in Section 50079.5 of the Health and Safety Code, at an
17 affordable cost, as defined by Section 50052.5 of the Health and
18 Safety Code, or an affordable rent set in an amount consistent with
19 the rent limits established by the California Tax Credit Allocation
20 Committee. The units shall be subject to a recorded deed restriction
21 for a period of 55 years for rental units and 45 years for
22 owner-occupied units.

23 (C) (i) “Housing for mixed-income households” means any of
24 the following:

25 (I) A housing development project in which at least 7 percent
26 of the total units, as defined in subparagraph (A) of paragraph~~(12)~~
27 ~~(10)~~ of subdivision (n) of Section 65915, are dedicated to extremely
28 low income households, as defined in Section 50106 of the Health
29 and Safety Code.

30 (II) A housing development project in which at least 10 percent
31 of the total units, as defined in subparagraph (A) of paragraph~~(12)~~
32 ~~(10)~~ of subdivision (n) of Section 65915, are dedicated to very low
33 income households, as defined in Section 50105 of the Health and
34 Safety Code.

35 (III) A housing development project in which at least 13 percent
36 of the total units, as defined in subparagraph (A) of paragraph~~(12)~~
37 ~~(10)~~ of subdivision (n) of Section 65915, are dedicated to lower
38 income households, as defined in Section 50079.5 of the Health
39 and Safety Code.

1 (IV) A housing development project in which there are 10 or
2 fewer total units, as defined in subparagraph (A) of paragraph ~~(12)~~
3 ~~(10)~~ of subdivision (n) of Section 65915, that is on a site that is
4 smaller than one acre, and that is proposed for development at a
5 minimum density of 10 units per acre.

6 (ii) All units dedicated to extremely low income, very low
7 income, and low-income households pursuant to clause (i) shall
8 meet both of the following:

9 (I) The units shall have an affordable housing cost, as defined
10 in Section 50052.5 of the Health and Safety Code, or an affordable
11 rent, as defined in Section 50053 of the Health and Safety Code.

12 (II) The development proponent shall agree to, and the local
13 agency shall ensure, the continued affordability of all affordable
14 rental units included pursuant to this section for 55 years and all
15 affordable ownership units included pursuant to this section for a
16 period of 45 years.

17 (D) “Housing for moderate-income households” means a
18 housing development project in which 100 percent of the units are
19 sold or rented to moderate-income households, as defined in
20 Section 50093 of the Health and Safety Code, at an affordable
21 housing cost, as defined in Section 50052.5 of the Health and
22 Safety Code, or an affordable rent, as defined in Section 50053 of
23 the Health and Safety Code. The units shall be subject to a recorded
24 deed restriction for a period of 55 years for rental units and 45
25 years for owner-occupied units.

26 (4) “Area median income” means area median income as
27 periodically established by the Department of Housing and
28 Community Development pursuant to Section 50093 of the Health
29 and Safety Code.

30 (5) Notwithstanding any other law, until January 1, 2030,
31 “deemed complete” means that the applicant has submitted a
32 preliminary application pursuant to Section 65941.1 or, if the
33 applicant has not submitted a preliminary application, has
34 submitted a complete application pursuant to Section 65943. The
35 local agency shall bear the burden of proof in establishing that the
36 application is not complete.

37 (6) “Disapprove the housing development project” includes any
38 instance in which a local agency does any of the following:

39 (A) Votes or takes final administrative action on a proposed
40 housing development project application and the application is

1 disapproved, including any required land use approvals or
2 entitlements necessary for the issuance of a building permit.

3 (B) Fails to comply with the time periods specified in
4 subdivision (a) of Section 65950. An extension of time pursuant
5 to Article 5 (commencing with Section 65950) shall be deemed to
6 be an extension of time pursuant to this paragraph.

7 (C) Fails to meet the time limits specified in Section 65913.3.

8 (D) Fails to cease a course of conduct undertaken for an
9 improper purpose, such as to harass or to cause unnecessary delay
10 or needless increases in the cost of the proposed housing
11 development project, that effectively disapproves the proposed
12 housing development without taking final administrative action if
13 all of the following conditions are met:

14 (i) The project applicant provides written notice detailing the
15 challenged conduct and why it constitutes disapproval to the local
16 agency established under Section 65100.

17 (ii) Within five working days of receiving the applicant's written
18 notice described in clause (i), the local agency shall post the notice
19 on the local agency's internet website, provide a copy of the notice
20 to any person who has made a written request for notices pursuant
21 to subdivision (f) of Section 21167 of the Public Resources Code,
22 and file the notice with the county clerk of each county in which
23 the project will be located. The county clerk shall post the notice
24 and make it available for public inspection in the manner set forth
25 in subdivision (c) of Section 21152 of the Public Resources Code.

26 (iii) The local agency shall consider all objections, comments,
27 evidence, and concerns about the project or the applicant's written
28 notice and shall not make a determination until at least 60 days
29 after the applicant has given written notice to the local agency
30 pursuant to clause (i).

31 (iv) Within 90 days of receipt of the applicant's written notice
32 described in clause (i), the local agency shall issue a written
33 statement that it will immediately cease the challenged conduct or
34 issue written findings that comply with both of the following
35 requirements:

36 (I) The findings articulate an objective basis for why the
37 challenged course of conduct is necessary.

38 (II) The findings provide clear instructions on what the applicant
39 must submit or supplement so that the local agency can make a

1 final determination regarding the next necessary approval or set
2 the date and time of the next hearing.

3 (v) (I) If a local agency continues the challenged course of
4 conduct described in the applicant's written notice and fails to
5 issue the written findings described in clause (iv), the local agency
6 shall bear the burden of establishing that its course of conduct does
7 not constitute a disapproval of the housing development project
8 under this subparagraph in an action taken by the applicant.

9 (II) If an applicant challenges a local agency's course of conduct
10 as a disapproval under this subparagraph, the local agency's written
11 findings described in clause (iv) shall be incorporated into the
12 administrative record and be deemed to be the final administrative
13 action for purposes of adjudicating whether the local agency's
14 course of conduct constitutes a disapproval of the housing
15 development project under this subparagraph.

16 (vi) A local agency's action in furtherance of complying with
17 the California Environmental Quality Act (Division 13
18 commencing with Section 21000) of the Public Resources Code),
19 including, but not limited to, imposing mitigating measures, shall
20 not constitute project disapproval under this subparagraph.

21 (E) Fails to comply with Section 65905.5. For purposes of this
22 subparagraph, a builder's remedy project shall be deemed to
23 comply with the applicable, objective general plan and zoning
24 standards in effect at the time an application is deemed complete.

25 (F) (i) Determines that an application for a housing development
26 project is incomplete pursuant to subdivision (a) or (b) of Section
27 65943 and includes in the determination an item that is not required
28 on the local agency's submittal requirement checklist. The local
29 agency shall bear the burden of proof that the required item is
30 listed on the submittal requirement checklist.

31 (ii) In a subsequent review of an application pursuant to Section
32 65943, requests the applicant provide new information that was
33 not identified in the initial determination and upholds this
34 determination in the final written determination on an appeal filed
35 pursuant to subdivision (c) of Section 65943. The local agency
36 shall bear the burden of proof that the required item was identified
37 in the initial determination.

38 (iii) Determines that an application for a housing development
39 project is incomplete pursuant to subdivision (a) or (b) of Section
40 65943, a reasonable person would conclude that the applicant has

1 submitted all of the items required on the local agency's submittal
2 requirement checklist, and the local agency upholds this
3 determination in the final written determination on an appeal filed
4 pursuant to subdivision (c) of Section 65943.

5 (iv) If a local agency determines that an application is
6 incomplete under Section 65943 after two resubmittals of the
7 application by the applicant, the local agency shall bear the burden
8 of establishing that the determination is not an effective disapproval
9 of a housing development project under this section.

10 (G) Violates subparagraph (D) or (E) of paragraph (6) of
11 subdivision (f).

12 (H) Makes a written determination that a preliminary application
13 described in subdivision (a) of Section 65941.1 has expired or that
14 the applicant has otherwise lost its vested rights under the
15 preliminary application for any reason other than those described
16 in subdivisions (c) and (d) of Section 65941.1.

17 (I) (i) Fails to make a determination of whether the project is
18 exempt from the California Environmental Quality Act (Division
19 13 (commencing with Section 21000) of the Public Resources
20 Code), or commits an abuse of discretion, as defined in subdivision
21 (b) of Section 65589.5.1 if all of the conditions in Section
22 65589.5.1 are satisfied.

23 (ii) This subparagraph shall become inoperative on January 1,
24 2031.

25 (J) (i) Fails to adopt a negative declaration or addendum for
26 the project, to certify an environmental impact report for the
27 project, or to approve another comparable environmental document,
28 such as a sustainable communities environmental assessment
29 pursuant to Section 21155.2 of the Public Resources Code, as
30 required pursuant to the California Environmental Quality Act
31 (Division 13 (commencing with Section 21000) of the Public
32 Resources Code), if all of the conditions in Section 65589.5.2 are
33 satisfied.

34 (ii) This subparagraph shall become inoperative on January 1,
35 2031.

36 (7) (A) For purposes of this section and Sections 65589.5.1 and
37 65589.5.2, "lawful determination" means any final decision about
38 whether to approve or disapprove a statutory or categorical
39 exemption or a negative declaration, addendum, environmental
40 impact report, or comparable environmental review document

1 under the California Environmental Quality Act (Division 13
2 (commencing with Section 21000) of the Public Resources Code)
3 that is not an abuse of discretion, as defined in subdivision (b) of
4 Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

5 (B) This paragraph shall become inoperative on January 1, 2031.

6 (8) “Lower density” includes any conditions that have the same
7 effect or impact on the ability of the project to provide housing.

8 (9) Until January 1, 2030, “objective” means involving no
9 personal or subjective judgment by a public official and being
10 uniformly verifiable by reference to an external and uniform
11 benchmark or criterion available and knowable by both the
12 development applicant or proponent and the public official.

13 (10) Notwithstanding any other law, until January 1, 2030,
14 “determined to be complete” means that the applicant has submitted
15 a complete application pursuant to Section 65943.

16 (11) “Builder’s remedy project” means a project that meets all
17 of the following criteria:

18 (A) The project is a housing development project that provides
19 housing for very low, low-, or moderate-income households.

20 (B) On or after the date an application for the housing
21 development project or emergency shelter was deemed complete,
22 the jurisdiction did not have a housing element that was in
23 substantial compliance with this article.

24 (C) The project has a density such that the number of units, as
25 calculated before the application of a density bonus pursuant to
26 Section 65915, complies with all of the following conditions:

27 (i) The density does not exceed the greatest of the following
28 densities:

29 (I) Fifty percent greater than the minimum density deemed
30 appropriate to accommodate housing for that jurisdiction as
31 specified in subparagraph (B) of paragraph (3) of subdivision (c)
32 of Section 65583.2.

33 (II) Three times the density allowed by the general plan, zoning
34 ordinance, or state law, whichever is greater.

35 (III) The density that is consistent with the density specified in
36 the housing element.

37 (ii) Notwithstanding clause (i), the greatest allowable density
38 shall be 35 units per acre more than the amount allowable pursuant
39 to clause (i), if any portion of the site is located within any of the
40 following:

1 (I) One-half mile of a major transit stop, as defined in Section
2 21064.3 of the Public Resources Code.

3 (II) A very low vehicle travel area, as defined in subdivision
4 (h).

5 (III) A high or highest resource census tract, as identified by
6 the latest edition of the “CTCAC/HCD Opportunity Map”
7 published by the California Tax Credit Allocation Committee and
8 the Department of Housing and Community Development.

9 (D) (i) On sites that have a minimum density requirement and
10 are located within one-half mile of a commuter rail station or a
11 heavy rail station, the density of the project shall not be less than
12 the minimum density required on the site.

13 (I) For purposes of this subparagraph, “commuter rail” means
14 a railway that is not a light rail, streetcar, trolley, or tramway and
15 that is for urban passenger train service consisting of local short
16 distance travel operating between a central city and adjacent suburb
17 with service operated on a regular basis by or under contract with
18 a transit operator for the purpose of transporting passengers within
19 urbanized areas, or between urbanized areas and outlying areas,
20 using either locomotive-hauled or self-propelled railroad passenger
21 cars, with multitrip tickets and specific station-to-station fares.

22 (II) For purposes of this subparagraph, “heavy rail” means an
23 electric railway with the capacity for a heavy volume of traffic
24 using high speed and rapid acceleration passenger rail cars
25 operating singly or in multicar trains on fixed rails, separate
26 rights-of-way from which all other vehicular and foot traffic are
27 excluded, and high platform loading.

28 (ii) On all other sites with a minimum density requirement, the
29 density of the project shall not be less than the local agency’s
30 minimum density or one-half of the minimum density deemed
31 appropriate to accommodate housing for that jurisdiction as
32 specified in subparagraph (B) of paragraph (3) of subdivision (c)
33 of Section 65583.2, whichever is lower.

34 (E) The project site does not abut a site where more than
35 one-third of the square footage on the site has been used, within
36 the past three years, by a heavy industrial use, or a Title V
37 industrial use, as those terms are defined in Section 65913.16.

38 (12) “Condition approval” includes imposing on the housing
39 development project, or attempting to subject it to, development
40 standards, conditions, or policies.

1 (13) “Unit type” means the form of ownership and the kind of
2 residential unit, including, but not limited to, single-family
3 detached, single-family attached, for-sale, rental, multifamily,
4 townhouse, condominium, apartment, manufactured homes and
5 mobilehomes, factory-built housing, and residential hotel.

6 (14) “Proposed by the applicant” means the plans and designs
7 as submitted by the applicant, including, but not limited to, density,
8 unit size, unit type, site plan, building massing, floor area ratio,
9 amenity areas, open space, parking, and ancillary commercial uses.

10 (i) If any city, county, or city and county denies approval or
11 imposes conditions, including design changes, lower density, or
12 a reduction of the percentage of a lot that may be occupied by a
13 building or structure under the applicable planning and zoning in
14 force at the time the housing development project’s application is
15 complete, that have a substantial adverse effect on the viability or
16 affordability of a housing development for very low, low-, or
17 moderate-income households, and the denial of the development
18 or the imposition of conditions on the development is the subject
19 of a court action which challenges the denial or the imposition of
20 conditions, then the burden of proof shall be on the local legislative
21 body to show that its decision is consistent with the findings as
22 described in subdivision (d), and that the findings are supported
23 by a preponderance of the evidence in the record, and with the
24 requirements of subdivision (o).

25 (j) (1) When a proposed housing development project complies
26 with applicable, objective general plan, zoning, and subdivision
27 standards and criteria, including design review standards, in effect
28 at the time that the application was deemed complete, but the local
29 agency proposes to disapprove the project or to impose a condition
30 that the project be developed at a lower density, the local agency
31 shall base its decision regarding the proposed housing development
32 project upon written findings supported by a preponderance of the
33 evidence on the record that both of the following conditions exist:

34 (A) The housing development project would have a specific,
35 adverse impact upon the public health or safety unless the project
36 is disapproved or approved upon the condition that the project be
37 developed at a lower density. As used in this paragraph, a “specific,
38 adverse impact” means a significant, quantifiable, direct, and
39 unavoidable impact, based on objective, identified written public

1 health or safety standards, policies, or conditions as they existed
2 on the date the application was deemed complete.

3 (B) There is no feasible method to satisfactorily mitigate or
4 avoid the adverse impact identified pursuant to paragraph (1), other
5 than the disapproval of the housing development project or the
6 approval of the project upon the condition that it be developed at
7 a lower density.

8 (2) (A) If the local agency considers a proposed housing
9 development project to be inconsistent, not in compliance, or not
10 in conformity with an applicable plan, program, policy, ordinance,
11 standard, requirement, or other similar provision as specified in
12 this subdivision, it shall provide the applicant with written
13 documentation identifying the provision or provisions, and an
14 explanation of the reason or reasons it considers the housing
15 development to be inconsistent, not in compliance, or not in
16 conformity as follows:

17 (i) Within 30 days of the date that the application for the housing
18 development project is determined to be complete, if the housing
19 development project contains 150 or fewer housing units.

20 (ii) Within 60 days of the date that the application for the
21 housing development project is determined to be complete, if the
22 housing development project contains more than 150 units.

23 (B) If the local agency fails to provide the required
24 documentation pursuant to subparagraph (A), the housing
25 development project shall be deemed consistent, compliant, and
26 in conformity with the applicable plan, program, policy, ordinance,
27 standard, requirement, or other similar provision.

28 (3) For purposes of this section, the receipt of a density bonus,
29 incentive, concession, waiver, or reduction of development
30 standards pursuant to Section 65915 shall not constitute a valid
31 basis on which to find a proposed housing development project is
32 inconsistent, not in compliance, or not in conformity, with an
33 applicable plan, program, policy, ordinance, standard, requirement,
34 or other similar provision specified in this subdivision.

35 (4) For purposes of this section, a proposed housing development
36 project is not inconsistent with the applicable zoning standards
37 and criteria, and shall not require a rezoning, if the housing
38 development project is consistent with the objective general plan
39 standards and criteria but the zoning for the project site is
40 inconsistent with the general plan. If the local agency has complied

1 with paragraph (2), the local agency may require the proposed
2 housing development project to comply with the objective
3 standards and criteria of the zoning which is consistent with the
4 general plan, however, the standards and criteria shall be applied
5 to facilitate and accommodate development at the density allowed
6 on the site by the general plan and proposed by the proposed
7 housing development project.

8 (k) (1) (A) (i) The applicant, a person who would be eligible
9 to apply for residency in the housing development project or
10 emergency shelter, or a housing organization may bring an action
11 to enforce this section. If, in any action brought to enforce this
12 section, a court finds that any of the following are met, the court
13 shall issue an order pursuant to clause (ii):

14 (I) The local agency, in violation of subdivision (d), disapproved
15 a housing development project or conditioned its approval in a
16 manner rendering it infeasible for the development of an emergency
17 shelter, or housing for very low, low-, or moderate-income
18 households, including farmworker housing, without making the
19 findings required by this section.

20 (II) The local agency, in violation of subdivision (j), disapproved
21 a housing development project complying with applicable,
22 objective general plan and zoning standards and criteria, or imposed
23 a condition that the project be developed at a lower density, without
24 making the findings required by this section.

25 (III) (ia) Subject to sub-subclause (ib), the local agency, in
26 violation of subdivision (o), required or attempted to require a
27 housing development project to comply with an ordinance, policy,
28 or standard not adopted and in effect when a preliminary
29 application was submitted.

30 (ib) This subclause shall become inoperative on January 1, 2030.

31 (IV) The local agency violated a provision of this section
32 applicable to a builder's remedy project.

33 (ii) If the court finds that one of the conditions in clause (i) is
34 met, the court shall issue an order or judgment compelling
35 compliance with this section within a time period not to exceed
36 60 days, including, but not limited to, an order that the local agency
37 take action on the housing development project or emergency
38 shelter. The court may issue an order or judgment directing the
39 local agency to approve the housing development project or
40 emergency shelter if the court finds that the local agency acted in

1 bad faith when it disapproved or conditionally approved the
2 housing development or emergency shelter in violation of this
3 section. The court shall retain jurisdiction to ensure that its order
4 or judgment is carried out and shall award reasonable attorney's
5 fees and costs of suit to the plaintiff or petitioner, provided,
6 however, that the court shall not award attorney's fees in either of
7 the following instances:

8 (I) The court finds, under extraordinary circumstances, that
9 awarding fees would not further the purposes of this section.

10 (II) (ia) In a case concerning a disapproval within the meaning
11 of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the
12 court finds that the local agency acted in good faith and had
13 reasonable cause to disapprove the housing development project
14 due to the existence of a controlling question of law about the
15 application of the California Environmental Quality Act (Division
16 13 (commencing with Section 21000) of the Public Resources
17 Code) or implementing guidelines as to which there was a
18 substantial ground for difference of opinion at the time of the
19 disapproval.

20 (ib) This subclause shall become inoperative on January 1, 2031.

21 (B) Upon a determination that the local agency has failed to
22 comply with the order or judgment compelling compliance with
23 this section within the time period prescribed by the court, the
24 court shall impose fines on a local agency that has violated this
25 section and require the local agency to deposit any fine levied
26 pursuant to this subdivision into a local housing trust fund. The
27 local agency may elect to instead deposit the fine into the Building
28 Homes and Jobs Trust Fund. The fine shall be in a minimum
29 amount of ten thousand dollars (\$10,000) per housing unit in the
30 housing development project on the date the application was
31 deemed complete pursuant to Section 65943. In determining the
32 amount of the fine to impose, the court shall consider the local
33 agency's progress in attaining its target allocation of the regional
34 housing need pursuant to Section 65584 and any prior violations
35 of this section. Fines shall not be paid out of funds already
36 dedicated to affordable housing, including, but not limited to, Low
37 and Moderate Income Housing Asset Funds, funds dedicated to
38 housing for very low, low-, and moderate-income households, and
39 federal HOME Investment Partnerships Program and Community
40 Development Block Grant Program funds. The local agency shall

1 commit and expend the money in the local housing trust fund
2 within five years for the sole purpose of financing newly
3 constructed housing units affordable to extremely low, very low,
4 or low-income households. After five years, if the funds have not
5 been expended, the money shall revert to the state and be deposited
6 in the Building Homes and Jobs Trust Fund for the sole purpose
7 of financing newly constructed housing units affordable to
8 extremely low, very low, or low-income households.

9 (C) If the court determines that its order or judgment has not
10 been carried out within 60 days, the court may issue further orders
11 as provided by law to ensure that the purposes and policies of this
12 section are fulfilled, including, but not limited to, an order to vacate
13 the decision of the local agency and to approve the housing
14 development project, in which case the application for the housing
15 development project, as proposed by the applicant at the time the
16 local agency took the initial action determined to be in violation
17 of this section, along with any standard conditions determined by
18 the court to be generally imposed by the local agency on similar
19 projects, shall be deemed to be approved unless the applicant
20 consents to a different decision or action by the local agency.

21 (D) Nothing in this section shall limit the court's inherent
22 authority to make any other orders to compel the immediate
23 enforcement of any writ brought under this section, including the
24 imposition of fees and other sanctions set forth under Section 1097
25 of the Code of Civil Procedure.

26 (2) For purposes of this subdivision, "housing organization"
27 means a trade or industry group whose local members are primarily
28 engaged in the construction or management of housing units or a
29 nonprofit organization whose mission includes providing or
30 advocating for increased access to housing for low-income
31 households and have filed written or oral comments with the local
32 agency prior to action on the housing development project. A
33 housing organization may only file an action pursuant to this
34 section to challenge the disapproval of a housing development by
35 a local agency. A housing organization shall be entitled to
36 reasonable attorney's fees and costs if it is the prevailing party in
37 an action to enforce this section.

38 (I) If the court finds that the local agency (1) acted in bad faith
39 when it violated this section and (2) failed to carry out the court's
40 order or judgment within the time period prescribed by the court,

1 the court, in addition to any other remedies provided by this
2 section, shall multiply the fine determined pursuant to subparagraph
3 (B) of paragraph (1) of subdivision (k) by a factor of five. If a court
4 has previously found that the local agency violated this section
5 within the same planning period, the court shall multiply the fines
6 by an additional factor for each previous violation. For purposes
7 of this section, “~~bad-faith~~ *faith*,” includes, but is not limited to,
8 an action or inaction that is frivolous, pretextual, intended to cause
9 unnecessary delay, or entirely without merit.

10 (m) (1) Any action brought to enforce the provisions of this
11 section shall be brought pursuant to Section 1094.5 of the Code
12 of Civil Procedure, and the local agency shall prepare and certify
13 the record of proceedings in accordance with subdivision (c) of
14 Section 1094.6 of the Code of Civil Procedure no later than 30
15 days after the petition is served, provided that the cost of
16 preparation of the record shall be borne by the local agency, unless
17 the petitioner elects to prepare the record as provided in subdivision
18 (n) of this section. A petition to enforce the provisions of this
19 section shall be filed and served no later than 90 days from the
20 later of (1) the effective date of a decision of the local agency
21 imposing conditions on, disapproving, or any other final action on
22 a housing development project or (2) the expiration of the time
23 periods specified in subparagraph (B) of paragraph (5) of
24 subdivision (h). Upon entry of the trial court’s order, a party may,
25 in order to obtain appellate review of the order, file a petition
26 within 20 days after service upon it of a written notice of the entry
27 of the order, or within such further time not exceeding an additional
28 20 days as the trial court may for good cause allow, or may appeal
29 the judgment or order of the trial court under Section 904.1 of the
30 Code of Civil Procedure. If the local agency appeals the judgment
31 of the trial court, the local agency shall post a bond, in an amount
32 to be determined by the court, to the benefit of the plaintiff if the
33 plaintiff is the project applicant.

34 (2) (A) A disapproval within the meaning of subparagraph (I)
35 of paragraph (6) of subdivision (h) shall be final for purposes of
36 this subdivision, if the local agency did not make a lawful
37 determination within the time period set forth in paragraph (5) of
38 subdivision (a) of Section 65589.5.1 after the applicant’s timely
39 written notice.

40 (B) This paragraph shall become inoperative on January 1, 2031.

1 (3) (A) A disapproval within the meaning of subparagraph (J)
2 of paragraph (6) of subdivision (h) shall be final for purposes of
3 this subdivision, if the local agency did not make a lawful
4 determination within 90 days of the applicant's timely written
5 notice.

6 (B) This paragraph shall become inoperative on January 1, 2031.

7 (n) In any action, the record of the proceedings before the local
8 agency shall be filed as expeditiously as possible and,
9 notwithstanding Section 1094.6 of the Code of Civil Procedure or
10 subdivision (m) of this section, all or part of the record may be
11 prepared (1) by the petitioner with the petition or petitioner's points
12 and authorities, (2) by the respondent with respondent's points and
13 authorities, (3) after payment of costs by the petitioner, or (4) as
14 otherwise directed by the court. If the expense of preparing the
15 record has been borne by the petitioner and the petitioner is the
16 prevailing party, the expense shall be taxable as costs.

17 (o) (1) Subject to paragraphs (2), (6), and (7), and subdivision
18 (d) of Section 65941.1, a housing development project shall be
19 subject only to the ordinances, policies, and standards adopted and
20 in effect when a preliminary application including all of the
21 information required by subdivision (a) of Section 65941.1 was
22 submitted.

23 (2) Paragraph (1) shall not prohibit a housing development
24 project from being subject to ordinances, policies, and standards
25 adopted after the preliminary application was submitted pursuant
26 to Section 65941.1 in the following circumstances:

27 (A) In the case of a fee, charge, or other monetary exaction, to
28 an increase resulting from an automatic annual adjustment based
29 on an independently published cost index that is referenced in the
30 ordinance or resolution establishing the fee or other monetary
31 exaction.

32 (B) A preponderance of the evidence in the record establishes
33 that subjecting the housing development project to an ordinance,
34 policy, or standard beyond those in effect when a preliminary
35 application was submitted is necessary to mitigate or avoid a
36 specific, adverse impact upon the public health or safety, as defined
37 in subparagraph (A) of paragraph (1) of subdivision (j), and there
38 is no feasible alternative method to satisfactorily mitigate or avoid
39 the adverse impact.

1 (C) Subjecting the housing development project to an ordinance,
2 policy, standard, or any other measure, beyond those in effect when
3 a preliminary application was submitted is necessary to avoid or
4 substantially lessen an impact of the project under the California
5 Environmental Quality Act (Division 13 (commencing with Section
6 21000) of the Public Resources Code).

7 (D) The housing development project has not commenced
8 construction within two and one-half years, or three and one-half
9 years for an affordable housing project, following the date that the
10 project received final approval. For purposes of this subparagraph:

11 (i) “Affordable housing project” means a housing development
12 that satisfies both of the following requirements:

13 (I) Units within the development are subject to a recorded
14 affordability restriction for at least 55 years for rental housing and
15 45 years for owner-occupied housing, or the first purchaser of each
16 unit participates in an equity sharing agreement as described in
17 subparagraph (C) of paragraph (2) of subdivision (c) of Section
18 65915.

19 (II) All of the units within the development, excluding managers’
20 units, are dedicated to lower income households, as defined by
21 Section 50079.5 of the Health and Safety Code.

22 (ii) “Final approval” means that the housing development project
23 has received all necessary approvals to be eligible to apply for,
24 and obtain, a building permit or permits and either of the following
25 is met:

26 (I) The expiration of all applicable appeal periods, petition
27 periods, reconsideration periods, or statute of limitations for
28 challenging that final approval without an appeal, petition, request
29 for reconsideration, or legal challenge having been filed.

30 (II) If a challenge is filed, that challenge is fully resolved or
31 settled in favor of the housing development project.

32 (E) The housing development project is revised following
33 submittal of a preliminary application pursuant to Section 65941.1
34 such that the number of residential units or square footage of
35 construction changes by 20 percent or more, exclusive of any
36 increase resulting from the receipt of a density bonus, incentive,
37 concession, waiver, or similar provision, including any other locally
38 authorized program that offers additional density or other
39 development bonuses when affordable housing is provided. For
40 purposes of this subdivision, “square footage of construction”

1 means the building area, as defined by the California Building
2 Standards Code (Title 24 of the California Code of Regulations).

3 (3) This subdivision does not prevent a local agency from
4 subjecting the additional units or square footage of construction
5 that result from project revisions occurring after a preliminary
6 application is submitted pursuant to Section 65941.1 to the
7 ordinances, policies, and standards adopted and in effect when the
8 preliminary application was submitted.

9 (4) For purposes of this subdivision, “ordinances, policies, and
10 standards” includes general plan, community plan, specific plan,
11 zoning, design review standards and criteria, subdivision standards
12 and criteria, and any other rules, regulations, requirements, and
13 policies of a local agency, as defined in Section 66000, including
14 those relating to development impact fees, capacity or connection
15 fees or charges, permit or processing fees, and other exactions.

16 (5) This subdivision shall not be construed in a manner that
17 would lessen the restrictions imposed on a local agency, or lessen
18 the protections afforded to a housing development project, that are
19 established by any other law, including any other part of this
20 section.

21 (6) This subdivision shall not restrict the authority of a public
22 agency or local agency to require mitigation measures to lessen
23 the impacts of a housing development project under the California
24 Environmental Quality Act (Division 13 (commencing with Section
25 21000) of the Public Resources Code).

26 (7) With respect to completed residential units for which the
27 project approval process is complete and a certificate of occupancy
28 has been issued, nothing in this subdivision shall limit the
29 application of later enacted ordinances, policies, and standards
30 that regulate the use and occupancy of those residential units, such
31 as ordinances relating to rental housing inspection, rent
32 stabilization, restrictions on short-term renting, and business
33 licensing requirements for owners of rental housing.

34 (8) (A) This subdivision shall apply to a housing development
35 project that submits a preliminary application pursuant to Section
36 65941.1 before January 1, 2030.

37 (B) This subdivision shall become inoperative on January 1,
38 2034.

39 (p) (1) Upon any motion for an award of attorney’s fees
40 pursuant to Section 1021.5 of the Code of Civil Procedure, in a

1 case challenging a local agency's approval of a housing
2 development project, a court, in weighing whether a significant
3 benefit has been conferred on the general public or a large class
4 of persons and whether the necessity of private enforcement makes
5 the award appropriate, shall give due weight to the degree to which
6 the local agency's approval furthers policies of this section,
7 including, but not limited to, subdivisions (a), (b), and (c), the
8 suitability of the site for a housing development, and the
9 reasonableness of the decision of the local agency. It is the intent
10 of the Legislature that attorney's fees and costs shall rarely, if ever,
11 be awarded if a local agency, acting in good faith, approved a
12 housing development project that satisfies conditions established
13 in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1
14 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.
15 (2) This subdivision shall become inoperative on January 1,
16 2031.

17 (q) This section shall be known, and may be cited, as the
18 Housing Accountability Act.

19 (r) The provisions of this section are severable. If any provision
20 of this section or its application is held invalid, that invalidity shall
21 not affect other provisions or applications that can be given effect
22 without the invalid provision or application.

23 SEC. 2. Section 65912.101 of the Government Code is amended
24 to read:

25 65912.101. For purposes of this chapter:

26 (a) "Base units" has the same meaning as "total units" as defined
27 in subparagraph (A) of paragraph ~~(12)~~ (10) of subdivision (n) of
28 Section 65915.

29 (b) "Commercial corridor" means a street that is not a freeway
30 and that has a right-of-way of at least 70 and not greater than 150
31 feet.

32 (c) "Development proponent" means a developer who submits
33 a housing development project application to a local government
34 under the streamlined, ministerial review process pursuant to this
35 chapter.

36 (d) "Extremely low income households" has the same meaning
37 as defined in Section 50106 of the Health and Safety Code.

38 (e) "Freeway" has the same meaning as defined in Section 332
39 of the Vehicle Code, except it does not include the portion of a

1 freeway that is an on ramp or off ramp that serves as a connector
2 between the freeway and other roadways that are not freeways.

3 (f) “Health care expenditures” include contributions under
4 Sections 501(c) or (d) or 401(a) of the Internal Revenue Code and
5 payments toward “medical care” as defined under Section 213(d)(1)
6 of the Internal Revenue Code.

7 (g) “Housing development project” has the same meaning as
8 defined in Section 65589.5.

9 (h) “Industrial use” means utilities, manufacturing, transportation
10 storage and maintenance facilities, warehousing uses, and any
11 other use that is a source that is subject to permitting by a district,
12 as defined in Section 39025 of the Health and Safety Code,
13 pursuant to Division 26 (commencing with Section 39000) of the
14 Health and Safety Code or the federal Clean Air Act (42 U.S.C.
15 Sec. 7401 et seq.). “Industrial use” does not include any of the
16 following:

17 (1) Power substations or utility conveyances such as power
18 lines, broadband wires, and pipes.

19 (2) A use where the only source permitted by a district is an
20 emergency backup generator.

21 (3) Self-storage for the residents of a building.

22 (i) “Local affordable housing requirement” means either of the
23 following:

24 (1) A local government requirement, as a condition of
25 development of residential units, that a housing development
26 project include a certain percentage of units affordable to, and
27 occupied by, extremely low, very low, lower, or moderate-income
28 households as a condition of development of residential units.

29 (2) A local government requirement allowing a housing
30 development project to be a use by right if the project includes a
31 certain percentage of units affordable to, and occupied by,
32 extremely low, very low, lower, or moderate-income households
33 as a condition of development of residential units.

34 (j) “Local government” means a city, including a charter city,
35 a county, including a charter county, or a city and county, including
36 a charter city and county.

37 (k) “Lower income households” has the same meaning as
38 defined in Section 50079.5 of the Health and Safety Code.

39 (l) “Major transit stop” has the same meaning as defined in
40 subdivision (b) of Section 21155 of the Public Resources Code.

1 (m) “Minimum efficiency reporting value” or “MERV” means
2 the measurement scale developed by the American Society of
3 Heating, Refrigerating and Air-Conditioning Engineers used to
4 report the effectiveness of air filters.

5 (n) “Moderate-income households” means households of persons
6 and families of moderate income, as defined in Section 50093 of
7 the Health and Safety Code.

8 (o) “Multifamily” means a property with five or more housing
9 units for sale or for rent.

10 (p) “Neighborhood plan” means a specific plan adopted pursuant
11 to Article 8 (commencing with Section 65450) of Chapter 3, an
12 area plan, precise plan, community plan, urban village plan, or
13 master plan. To qualify as a neighborhood plan, the plan must have
14 been adopted by a local government before January 1, 2024, and
15 within 25 years of the date that a development proponent submits
16 an application pursuant to this chapter. A neighborhood plan does
17 not include a community plan or plans where the cumulative area
18 covered by the community plans in the jurisdiction is more than
19 one-half of the area of the jurisdiction.

20 (q) “Principally permitted use” means a use that, as of January
21 1, 2023, or thereafter, may occupy more than one-third of the
22 square footage of designated use on the site and does not require
23 a conditional use permit, except that parking uses are considered
24 principally permitted whether or not they require a conditional use
25 permit.

26 (r) “Regional mall” means a site that meets all of the following
27 criteria on the date that a development proponent submits an
28 application pursuant to this chapter:

29 (1) The permitted uses on the site include at least 250,000 square
30 feet of retail use.

31 (2) At least two-thirds of the permitted uses on the site are retail
32 uses.

33 (3) At least two of the permitted retail uses on the site are at
34 least 10,000 square feet.

35 (s) “Street” has the same meaning as defined in Section 590 of
36 the Vehicle Code, and includes sidewalks, as defined in Section
37 555 of the Vehicle Code.

38 (t) “Urban uses” means any current or former residential,
39 commercial, public institutional, public park that is surrounded by

1 other urban uses, parking lot or structure, transit or transportation
2 passenger facility, or retail use, or any combination of those uses.

3 (u) “Use by right” means a development project for which both
4 of the following are true:

5 (1) The development project is not subject to a conditional use
6 permit, planned unit development permit, or any other discretionary
7 local government approval, permit, or review process.

8 (2) No aspect of the development project, including any permits
9 required for the development project, is a “project” for purposes
10 of Division 13 (commencing with Section 21000) of the Public
11 Resources Code.

12 (v) “Very low income households” has the same meaning as
13 defined in Section 50105 of the Health and Safety Code.

14 (w) “Very low vehicle travel area” has the same meaning as
15 defined in subdivision (h) of Section 65589.5.

16 SEC. 3. Section 65912.123 of the Government Code is amended
17 to read:

18 65912.123. A development project shall not be subject to the
19 streamlined, ministerial review process provided by Section
20 65912.124 unless the development project meets all of the
21 following objective development standards:

22 (a) The development shall be a multifamily housing development
23 project.

24 (b) The residential density for the development, prior to the
25 award of any eligible density bonus pursuant to Section 65915,
26 shall be determined as follows:

27 (1) In a metropolitan jurisdiction, as determined pursuant to
28 subdivisions (d) and (e) of Section 65583.2, the allowable
29 residential density for the development shall be the greater of the
30 following:

31 (A) The maximum allowable residential density, as defined in
32 subdivision (n) of Section 65915, allowed on the parcel by the
33 local government.

34 (B) For sites of less than one acre in size, 30 units per acre.

35 (C) For sites of one acre in size or greater located on a
36 commercial corridor of less than 100 feet in width, 40 units per
37 acre.

38 (D) For sites of one acre in size or greater located on a
39 commercial corridor of 100 feet in width or greater, 60 units per
40 acre.

(E) Notwithstanding subparagraph (B), (C), or (D), for sites within a very low vehicle travel area or within one-half mile of a major transit stop, 80 units per acre.

(2) In a jurisdiction that is not a metropolitan jurisdiction, as determined pursuant to subdivisions (d) and (e) of Section 65583.2, the allowable residential density for the development shall be the greater of the following:

(A) The maximum allowable residential density, as defined in subdivision (n) of Section 65915, allowed on the parcel by the local government.

(B) For sites of less than one acre in size, 20 units per acre.

(C) For sites of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 30 units per acre.

(D) For sites of one acre in size or greater located on a commercial corridor of 100 feet in width or greater, 50 units per acre.

(E) Notwithstanding subparagraph (B), (C), or (D), for sites within a very low vehicle travel area or within one-half mile of a major transit stop, 70 units per acre.

(3) (A) For a housing development project application that has been determined to be consistent with the objective planning standards specified in this article, pursuant to subdivision (a) of Section 65912.124, before January 1, 2027, the development project shall be developed at a density as follows:

(i) Except as provided in clause (ii), 50 percent or greater of the applicable allowable residential density contained in subparagraphs (B) to (E), inclusive, of paragraph (1) or subparagraphs (B) to (E), inclusive, of paragraph (2), as applicable.

(ii) For a site within one-half mile of an existing passenger rail or bus rapid transit station, 75 percent or greater of the applicable allowable residential density contained in subparagraphs (B) to (E), inclusive, of paragraph (1) or subparagraphs (B) to (E), inclusive, of paragraph (2), as applicable.

(B) For a housing development project application that has been determined to be consistent with the objective planning standards specified in this article, pursuant to subdivision (a) of Section 65912.124, on or after January 1, 2027, the development project shall be developed at a density that is 75 percent or greater of the applicable allowable residential density contained in subparagraphs

1 (B) to (E), inclusive, of paragraph (1) or subparagraphs (B) to (E),
2 inclusive, of paragraph (2), as applicable.

3 (4) Notwithstanding paragraphs (1) and (2), a development
4 project shall not be subject to any density limitation if the
5 development project is a conversion of existing buildings into
6 residential use, unless the development project includes additional
7 new square footage that is more than 20 percent of the overall
8 square footage of the project.

9 (c) The height limit applicable to the housing development shall
10 be the greater of the following:

11 (1) The height allowed on the parcel by the local government.

12 (2) For sites on a commercial corridor of less than 100 feet in
13 width, 35 feet.

14 (3) For sites on a commercial corridor of 100 feet in width or
15 greater, 45 feet.

16 (4) Notwithstanding paragraphs (2) and (3), 65 feet for sites
17 that meet all of the following criteria:

18 (A) They are within one-half mile of a major transit stop.

19 (B) They are within a city with a population of greater than
20 100,000.

21 (C) They are not within a coastal zone, as defined in Division
22 20 (commencing with Section 30000) of the Public Resources
23 Code.

24 (d) The property meets the following standards:

25 (1) For the portion of the property that fronts a commercial
26 corridor, the following shall occur:

27 (A) No setbacks shall be required.

28 (B) All parking must be set back at least 25 feet.

29 (C) On the ground floor, a building or buildings must abut within
30 10 feet of the street for at least 80 percent of the frontage.

31 (2) For the portion of the property that abuts an adjoining
32 property that also abuts the same commercial corridor as the
33 property, no setbacks are required unless the adjoining property
34 contains a residential use that was constructed prior to the
35 enactment of this chapter, in which case the requirements of
36 subparagraph (A) of paragraph (3) apply.

37 (3) For the portion of the property line that does not abut or lie
38 within a commercial corridor, or an adjoining property that also
39 abuts the same commercial corridor as the property, the following
40 shall occur:

1 (A) Along property lines that abut a property that contains a
2 residential use, the following shall occur:

3 (i) The ground floor of the development project shall be set back
4 at 10 feet. The amount required to be set back may be decreased
5 by the local government.

6 (ii) Starting with the second floor of the property, each
7 subsequent floor of the development project shall be stepped back
8 in an amount equal to seven feet multiplied by the floor number.
9 For purposes of this paragraph, the ground floor counts as the first
10 floor. The amount required to be stepped back may be decreased
11 by the local government.

12 (B) Along property lines that abut a property that does not
13 contain a residential use, the development shall be set back 15 feet.
14 The amount required to be stepped back may be decreased by the
15 local government.

16 (4) For a development project at a regional mall, all of the
17 following requirements apply:

18 (A) The average size of a block shall not exceed three acres.
19 For purposes of this subparagraph, a “block” means an area fully
20 surrounded by streets, pedestrian paths, or a combination of streets
21 and pedestrian paths that are each at least 40 feet in width.

22 (B) At least 5 percent of the site shall be dedicated to open
23 space.

24 (C) For the portion of the property that fronts a street that is
25 newly created by the project and is not a commercial corridor, a
26 building shall abut within 10 feet of the street for at least 60 percent
27 of the frontage.

28 (e) No parking shall be required, including replacement parking,
29 except that this article shall not reduce, eliminate, or preclude the
30 enforcement of any requirement imposed on a new multifamily
31 residential or nonresidential development to provide bicycle
32 parking, electric vehicle supply equipment installed parking spaces,
33 or parking spaces that are accessible to persons with disabilities
34 that would have otherwise applied to the development if this article
35 did not apply.

36 (f) For any housing on the site located within 500 feet of a
37 freeway, all of the following shall apply:

38 (1) The building shall have a centralized heating, ventilation,
39 and air-conditioning system.

1 (2) The outdoor air intakes for the heating, ventilation, and
2 air-conditioning system shall face away from the freeway.

3 (3) The building shall provide air filtration media for outside
4 and return air that provide a minimum efficiency reporting value
5 of 16.

6 (4) The air filtration media shall be replaced at the
7 manufacturer's designated interval.

8 (5) The building shall not have any balconies facing the freeway.

9 (g) None of the housing on the site is located within 3,200 feet
10 of a facility that actively extracts or refines oil or natural gas.

11 (h) (1) The development proponent shall provide written notice
12 of the pending application to each commercial tenant on the parcel
13 when the application is submitted.

14 (2) The development proponent shall provide relocation
15 assistance to each eligible commercial tenant located on the site
16 as follows:

17 (A) For a commercial tenant operating on the site for at least
18 one year but less than five years, the relocation assistance shall be
19 equivalent to six months' rent.

20 (B) For a commercial tenant operating on the site for at least 5
21 years but less than 10 years, the relocation assistance shall be
22 equivalent to nine months' rent.

23 (C) For a commercial tenant operating on the site for at least
24 10 years but less than 15 years, the relocation assistance shall be
25 equivalent to 12 months' rent.

26 (D) For a commercial tenant operating on the site for at least
27 15 years but less than 20 years, the relocation assistance shall be
28 equivalent to 15 months' rent.

29 (E) For a commercial tenant operating on the site for at least 20
30 years, the relocation assistance shall be equivalent to 18 months'
31 rent.

32 (3) The relocation assistance shall be provided to an eligible
33 commercial tenant upon expiration of the lease of that commercial
34 tenant.

35 (4) For purposes of this subdivision, a commercial tenant is
36 eligible for relocation assistance if the commercial tenant meets
37 all of the following criteria:

38 (A) The commercial tenant is an independently owned and
39 operated business with its principal office located in the county in

1 which the property on the site that is leased by the commercial
2 tenant is located.

3 (B) The commercial tenant's lease expired and was not renewed
4 by the property owner.

5 (C) The commercial tenant's lease expired within the three years
6 following the development proponent's submission of the
7 application for a housing development pursuant to this article.

8 (D) The commercial tenant employs 20 or fewer employees and
9 has annual average gross receipts under one million dollars
10 (\$1,000,000) for the three-taxable-year period ending with the
11 taxable year that precedes the expiration of their lease.

12 (E) The commercial tenant is still in operation on the site at the
13 time of the expiration of its lease.

14 (5) Notwithstanding paragraph (4), for purposes of this
15 subdivision, a commercial tenant is ineligible for relocation
16 assistance if the commercial tenant meets both of the following
17 criteria:

18 (A) The commercial tenant entered into a lease on the site after
19 the development proponent's submission of the application for a
20 housing development pursuant to this article.

21 (B) The commercial tenant had not previously entered into a
22 lease on the site.

23 (6) (A) The commercial tenant shall utilize the funds provided
24 by the development proponent to relocate the business or for costs
25 of a new business.

26 (B) Notwithstanding paragraph (2), if the commercial tenant
27 elects not to use the funds provided as required by subparagraph
28 (A), the development proponent shall provide only assistance equal
29 to three months' rent, regardless of the duration of the commercial
30 tenant's lease.

31 (7) For purposes of this subdivision, monthly rent is equal to
32 one-twelfth of the total amount of rent paid by the commercial
33 tenant in the last 12 months.

34 (i) For any project that is the conversion of an existing building
35 for nonresidential use building to residential use, the local
36 government shall not require the provision of common open space
37 beyond what is required for the existing project site.

38 (j) Objective zoning standards, objective subdivision standards,
39 and objective design review standards not specified elsewhere in
40 this section, as follows:

1 (1) The applicable objective standards shall be those for the
2 closest zone in the city, county, or city and county that allows
3 multifamily residential use at the residential density proposed by
4 the project. If no zone exists that allows the residential density
5 proposed by the project, the applicable objective standards shall
6 be those for the zone that allows the greatest density within the
7 city, county, or city and county.

8 (2) The applicable objective standards shall be those in effect
9 at the time that the development application is submitted to the
10 local government pursuant to this article.

11 (3) The objective standards shall not preclude a development
12 from being built at the residential density required pursuant to
13 subdivision (b) and shall not require the development to reduce
14 unit size to meet the objective standards.

15 (4) The applicable objective standards may include a
16 requirement that up to one-half of the ground floor of the housing
17 development project be dedicated to retail use.

18 (5) For purposes of this section, “objective zoning standards,”
19 “objective subdivision standards,” and “objective design review
20 standards” mean standards that involve no personal or subjective
21 judgment by a public official and are uniformly verifiable by
22 reference to an external and uniform benchmark or criterion
23 available and knowable by both the development applicant or
24 proponent and the public official before submittal. These standards
25 may be embodied in alternative objective land use specifications
26 adopted by a city or county, and may include, but are not limited
27 to, housing overlay zones, specific plans, inclusionary zoning
28 ordinances, and density bonus ordinances. In the event that
29 objective zoning, general plan, subdivision, or design review
30 standards are mutually inconsistent, a development shall be deemed
31 consistent with the objective zoning and subdivision standards
32 pursuant to this subdivision if the development is consistent with
33 the standards set forth in the general plan.

34 SEC. 4. Section 65912.124 of the Government Code is amended
35 to read:

36 65912.124. (a) (1) A local government shall determine, in
37 writing, whether a development submitted pursuant to this article
38 is consistent or is not consistent with the objective planning
39 standards specified in this article within the following timeframes:

1 (A) Within 60 days of submittal of the development proposal
2 to the local government if the development contains 150 or fewer
3 housing units.

4 (B) Within 90 days of submittal of the development proposal
5 to the local government if the development contains more than
6 150 housing units.

7 (C) Within 30 days of submittal of any development proposal
8 that was resubmitted to address written feedback provided by the
9 local government pursuant to this subdivision.

10 (2) (A) If a local government determines that a development
11 submitted pursuant to this article is in conflict with any of the
12 objective planning standards specified in this article, it shall provide
13 the development proponent, in writing, with an exhaustive list of
14 the standard or standards the development conflicts with, and an
15 explanation for the reason or reasons the development conflicts
16 with that standard or standards, within the timeframes specified
17 in paragraph (1).

18 (B) In any subsequent review of the application determined to
19 be in conflict with the objective planning standards specified in
20 this article, the local government shall not request the development
21 proponent to provide any new information that was not stated in
22 the initial list of items that were determined to be in conflict.

23 (3) Once the local government determines that a development
24 submitted pursuant to this article is consistent with the objective
25 planning standards specified in this article, it shall approve the
26 development within the following timeframes:

27 (A) Within 60 days of the date that the development is
28 determined to be consistent with the objective planning standards
29 specified in this article, if the development contains 150 or fewer
30 housing units.

31 (B) Within 90 days of the date that the development is
32 determined to be consistent with the objective planning standards
33 specified in this article, if the development contains more than 150
34 housing units.

35 (4) If the local government fails to provide the required
36 documentation pursuant to paragraph (2), the development shall
37 be deemed to satisfy the required objective planning standards.

38 (b) (1) For purposes of this section, a development is consistent
39 with the objective planning standards if there is substantial

1 evidence that would allow a reasonable person to conclude that
2 the development is consistent with the objective planning standards.

3 (2) For purposes of this section, a development is not in conflict
4 with the objective planning standards solely on the basis that
5 application materials are not included, if the application contains
6 substantial evidence that would allow a reasonable person to
7 conclude that the development is consistent with the objective
8 planning standards.

9 (c) The determination of whether a proposed project submitted
10 pursuant to this section is or is not in conflict with the objective
11 planning standards is not a “project” as defined in Section 21065
12 of the Public Resources Code.

13 (d) Design review of the development may be conducted by the
14 local government’s planning commission or any equivalent board
15 or commission responsible for design review. That design review
16 shall be objective and be strictly focused on assessing compliance
17 with criteria required for streamlined, ministerial review of projects,
18 as well as any reasonable objective design standards published
19 and adopted by ordinance or resolution by a local jurisdiction
20 before submittal of the development to the local government, and
21 shall be broadly applicable to developments within the jurisdiction.
22 That design review shall not in any way inhibit, chill, or preclude
23 the ministerial approval provided by this section.

24 (e) If a development is located within an area of the coastal zone
25 that is not excluded under clause (i), (ii), (iii), or (v) of
26 subparagraph (A) of paragraph (6) of subdivision (a) of Section
27 65913.4, the development shall require a coastal development
28 permit pursuant to Chapter 7 (commencing with Section 30600)
29 of Division 20 of the Public Resources Code. A public agency
30 with coastal development permitting authority shall approve a
31 coastal development permit if it determines that the development
32 is consistent with all objective standards of the local government’s
33 certified local coastal program or, for areas that are not subject to
34 a fully certified local coastal program, the certified land use plan
35 of that area.

36 (f) (1) A housing development proposed pursuant to this article
37 shall be eligible for a density bonus, incentives or concessions,
38 waivers or reductions of development standards, and parking ratios
39 pursuant to Section 65915, except that the project shall not use a
40 concession to reduce a local government requirement for the

1 provision of ground floor retail that is consistent with the allowance
2 contained in paragraph (3) of subdivision (j) of Section 65912.123.

3 (2) A development proponent may use incentives, concessions,
4 and waivers or reductions of development standards allotted
5 pursuant to subdivisions (d) and (e) of Section 65915 to deviate
6 from the objective standards contained in subdivision (c) and
7 paragraphs (2) and (3) of subdivision (d) of Section 65912.123.

8 (3) The utilization by a development proponent of incentives,
9 concessions, and waivers or reductions of development standards
10 allowed pursuant to Section 65915 shall not cause the project to
11 be subject to a local discretionary government review process, or
12 be considered a “project” under Division 13 (commencing with
13 Section 21000) of the Public Resources Code, even if that
14 incentive, concession, or waiver or reduction of development
15 standards is not specified in a local ordinance.

16 (4) For purposes of this section, receipt of any density bonus,
17 concession, incentive, waiver or reduction of development
18 standards, and parking ratios to which the applicant is entitled
19 under Section 65915 shall not constitute a basis to find the project
20 inconsistent with the local coastal program.

21 (5) Notwithstanding paragraph (7) of subdivision (n) of Section
22 65915, for purposes of this subdivision, the maximum allowable
23 residential density means the allowable density as determined
24 pursuant to paragraphs (1) and (2) of subdivision (b) of Section
25 65912.123.

26 (g) If a development proposed pursuant to this article demolishes
27 or changes an existing use, the amount of a fee, as defined in
28 Section 66000, imposed on the development shall be offset to
29 account for the demolition or change so that the amount of the fee
30 is attributable only to the development’s incremental impact on
31 public facilities or services. For purposes of this subdivision, an
32 offset amount that exceeds the fee amount shall not be refundable
33 or used to offset any other fee. This subdivision does not supersede
34 or in any way alter or lessen the effect of the Mitigation Fee Act
35 (Chapter 5 (commencing with Section 66000), Chapter 6
36 (commencing with Section 66010), Chapter 7 (commencing with
37 Section 66012), Chapter 7.5 (commencing with Section 66015),
38 Chapter 8 (commencing with Section 66016), and Chapter 9
39 (commencing with Section 66020)). For the purpose of this
40 subdivision, “changes an existing use” means no demolition is

1 proposed, but a current office, commercial, or similar use changes
2 to residential use.

3 (h) The local government shall ensure that the project satisfies
4 the requirements specified in Article 2 (commencing with Section
5 66300.5) of Chapter 12, regardless of whether the development is
6 within or not within an affected city or within or not within an
7 affected county.

8 (i) If the development is consistent with all objective subdivision
9 standards in the local subdivision ordinance, an application for a
10 subdivision pursuant to the Subdivision Map Act (Division 2
11 (commencing with Section 66410)) shall be exempt from the
12 requirements of the California Environmental Quality Act (Division
13 13 (commencing with Section 21000) of the Public Resources
14 Code).

15 (j) A local government may, by ordinance adopted to implement
16 this article, exempt a parcel from this section before a development
17 proponent submits a development application on a parcel pursuant
18 to this article if the local government makes written findings
19 establishing all of the following:

20 (1) The local government has identified a parcel or parcels that
21 meet the criteria described in subdivisions (b) and (e) to (h),
22 inclusive, of Section 65912.121.

23 (2) (A) If a parcel identified in paragraph (1) would not
24 otherwise be eligible for development pursuant to this chapter, the
25 implementing ordinance authorizes the parcel to be developed
26 pursuant to the requirements of this chapter. A parcel reclassified
27 for development pursuant to this subparagraph shall be suitable
28 for residential development. For purposes of this subparagraph, a
29 parcel suitable for residential development shall have the same
30 meaning as “land suitable for residential development,” as defined
31 in Section 65583.2.

32 (B) If a parcel identified in paragraph (1) would otherwise be
33 eligible for development pursuant to this chapter, the implementing
34 ordinance authorizes the parcel to be developed ministerially at
35 residential densities above the residential density required in
36 subdivision (b) of Section 65912.123 and heights required in
37 subdivision (c) of Section 65912.123.

38 (3) The substitution of the parcel or parcels identified in this
39 subdivision for parcels reclassified pursuant to paragraph (2) will
40 result in all of the following:

1 (A) No net loss of the total potential residential capacity in the
2 jurisdiction relative to the total capacity that existed in the
3 jurisdiction through the combined effect of local and state law as
4 of the date of the adoption of the ordinance. In making the no net
5 loss calculation specified by this subparagraph, the local
6 government need only factor in the parcels substituted and
7 reclassified pursuant to this subdivision.

8 (B) No net loss of the total potential residential capacity of
9 housing affordable to lower income households in the jurisdiction
10 relative to the total capacity that existed in the jurisdiction through
11 the combined effect of this chapter and local law as of the date of
12 the adoption of the ordinance. In making the no net loss calculation
13 specified by this subparagraph, the local government need only
14 factor in the parcels substituted and reclassified pursuant to this
15 subdivision.

16 (C) Affirmative furthering of fair housing.

17 (4) A parcel or parcels reclassified for development pursuant
18 to subparagraph (A) of paragraph (2) shall be eligible for
19 development pursuant to this chapter notwithstanding any contrary
20 provision of the local government's charter, general plan, or
21 ordinances, and a parcel or parcels reclassified for development
22 pursuant to subparagraph (B) of paragraph (2) shall be developed
23 ministerially at the densities and heights specified in the ordinance
24 notwithstanding any contrary provision of the local government's
25 charter, general plan, or ordinances.

26 (5) The local government has completed all of the rezonings
27 required pursuant to subdivision (c) of Section 65583 for the sixth
28 revision of its housing element.

29 (6) The local government has designated on its zoning maps
30 which parcels have been exempted from this chapter and which
31 parcels have been reclassified for development pursuant to this
32 chapter. This information must be made publicly available through
33 the local government's internet website.

34 (k) (1) The local government shall, as a condition of approval
35 of the development, require the development proponent to complete
36 a phase I environmental assessment, as defined in Section 78090
37 of the Health and Safety Code.

38 (2) If a recognized environmental condition is found, the
39 development proponent shall undertake a preliminary
40 endangerment assessment, as defined in Section 78095 of the

1 Health and Safety Code, prepared by an environmental assessor
2 to determine the existence of any release of a hazardous substance
3 on the site and to determine the potential for exposure of future
4 occupants to significant health hazards from any nearby property
5 or activity.

6 (A) If a release of a hazardous substance is found to exist on
7 the site, before the local government issues a certificate of
8 occupancy, the release shall be removed, or any significant effects
9 of the release shall be mitigated to a level of insignificance in
10 compliance with current state and federal requirements.

11 (B) If a potential for exposure to significant hazards from
12 surrounding properties or activities is found to exist, before the
13 local government issues a certificate of occupancy, the effects of
14 the potential exposure shall be mitigated to a level of insignificance
15 in compliance with current state and federal requirements.

16 (I) A local government's approval of a development pursuant
17 to this section shall, notwithstanding any other law, be subject to
18 the expiration timeframes specified in subdivision (g) of Section
19 65913.4.

20 (m) Any proposed modifications to a development project
21 approved pursuant to this section shall be undertaken pursuant to
22 subdivision (h) of Section 65913.4.

23 (n) A local government shall not adopt or impose any
24 requirement, including, but not limited to, increased fees or
25 inclusionary housing requirements, that applies to a project solely
26 or partially on the basis that the project is eligible to receive
27 streamlined, ministerial review pursuant to this section.

28 (o) A local government shall issue a subsequent permit required
29 for a development approved under this section pursuant to
30 paragraph (2) of subdivision (i) of Section 65913.4.

31 (p) A public improvement that is necessary to implement a
32 development that is approved pursuant to this section shall be
33 undertaken pursuant to paragraph (3) of subdivision (i) of Section
34 65913.4.

35 (q) A local government may adopt an ordinance to implement
36 the provisions of this article. An ordinance adopted to implement
37 this section shall not be considered a "project" under Division 13
38 (commencing with Section 21000) of the Public Resources Code.

39 (r) Section 65589.5 applies to a development proceeding
40 pursuant to this article.

1 SEC. 5. Section 65915 of the Government Code is amended
2 to read:

3 65915. (a) (1) When an applicant seeks a density bonus for
4 a housing development within, or for the donation of land for
5 housing within, the jurisdiction of a city, county, or city and county,
6 that local government shall comply with this section. A city,
7 county, or city and county shall adopt an ordinance that specifies
8 how compliance with this section will be implemented. Except as
9 otherwise provided in subdivision (r), failure to adopt an ordinance
10 shall not relieve a city, county, or city and county from complying
11 with this section.

12 (2) A local government shall not condition the submission,
13 review, or approval of an application pursuant to this chapter on
14 the preparation of an additional report or study that is not otherwise
15 required by state law, including this section. This subdivision does
16 not prohibit a local government from requiring an applicant to
17 provide reasonable documentation to establish eligibility for a
18 requested density bonus, as described in subdivision (b), and
19 parking ratios, as described in subdivision (o).

20 (3) In order to provide for the expeditious processing of a density
21 bonus application, the local government shall do all of the
22 following:

23 (A) Adopt procedures and timelines for processing a density
24 bonus application.

25 (B) Provide a list of all documents and information required to
26 be submitted with the density bonus application in order for the
27 density bonus application to be deemed complete. This list shall
28 be consistent with this chapter.

29 (C) Notify the applicant for a density bonus whether the
30 application is complete in a manner consistent with the timelines
31 specified in Section 65943.

32 (D) (i) If the local government notifies the applicant that the
33 application is deemed complete pursuant to subparagraph (C),
34 provide the applicant with a determination as to the following
35 matters:

36 (I) The amount of density bonus, calculated pursuant to
37 subdivision (f), for which the applicant is eligible.

38 (II) If the applicant requests a parking ratio pursuant to
39 subdivision (o), the parking ratio for which the applicant is eligible.

1 (III) If the applicant requests incentives or concessions pursuant
2 to subdivision (d) or waivers or reductions of development
3 standards pursuant to subdivision (e), whether the applicant has
4 provided adequate information for the local government to make
5 a determination as to those incentives, concessions, waivers, or
6 reductions of development standards.

7 (ii) Any determination required by this subparagraph shall be
8 based on the development project at the time the application is
9 deemed complete. The local government shall adjust the amount
10 of density bonus and parking ratios awarded pursuant to this section
11 based on any changes to the project during the course of
12 development.

13 (b) (1) A city, county, or city and county shall grant one density
14 bonus, the amount of which shall be as specified in subdivision
15 (f), and, if requested by the applicant and consistent with the
16 applicable requirements of this section, incentives or concessions,
17 as described in subdivision (d), waivers or reductions of
18 development standards, as described in subdivision (e), and parking
19 ratios, as described in subdivision (o), if an applicant for a housing
20 development seeks and agrees to construct a housing development,
21 excluding any units permitted by the density bonus awarded
22 pursuant to this section, that will contain at least any one of the
23 following:

24 (A) Ten percent of the total units of a housing development,
25 including a shared housing building development, for rental or
26 sale to lower income households, as defined in Section 50079.5
27 of the Health and Safety Code.

28 (B) Five percent of the total units of a housing development,
29 including a shared housing building development, for rental or
30 sale to very low income households, as defined in Section 50105
31 of the Health and Safety Code.

32 (C) A senior citizen housing development, as defined in Sections
33 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
34 residency based on age requirements for housing for older persons
35 pursuant to Section 798.76 or 799.5 of the Civil Code. For purposes
36 of this subparagraph, “development” includes a shared housing
37 building development and a residential care facility for the elderly,
38 as defined in Section 1569.2 of the Health and Safety Code.

39 (D) Ten percent of the total dwelling units of a housing
40 development are sold to persons and families of moderate income,

1 as defined in Section 50093 of the Health and Safety Code,
2 provided that all units in the development are offered to the public
3 for purchase.

4 (E) Ten percent of the total units of a housing development for
5 transitional foster youth, as defined in Section 66025.9 of the
6 Education Code, disabled veterans, as defined in Section 18541,
7 or homeless persons, as defined in the federal McKinney-Vento
8 Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units
9 described in this subparagraph are subject to a recorded
10 affordability restriction of 55 years and shall be provided at the
11 same affordability level as very low income units.

12 (F) (i) Twenty percent of the total units for lower income
13 students in a student housing development that meets the following
14 requirements:

15 (I) All units in the student housing development shall be used
16 exclusively for undergraduate, graduate, or professional students
17 enrolled currently or in the past six months in at least six units at
18 an institution of higher education accredited by the Western
19 Association of Schools and Colleges or the Accrediting
20 Commission for Community and Junior Colleges. In order to be
21 eligible under this subclause, the developer shall, as a condition
22 of receiving a certificate of occupancy, provide evidence to the
23 city, county, or city and county that the developer has done any
24 one of the following:

25 (ia) Entered into an operating agreement or master lease with
26 one or more institutions of higher education for the institution or
27 institutions to occupy all units of the student housing development
28 with students from that institution or institutions. An operating
29 agreement or master lease entered into pursuant to this subclause
30 is not violated or breached if, in any subsequent year, there are
31 insufficient students enrolled in an institution of higher education
32 to fill all units in the student housing development.

33 (ib) Established a system for confirming its renters' status as
34 students to ensure that all units of the student housing development
35 are occupied with students from an institution of higher education.

36 (II) The applicable units in the student housing development
37 for lower income students shall be used for and occupied by lower
38 income students.

39 (III) The rent provided in the applicable units of the development
40 for lower income students shall be calculated at 30 percent of 65

1 percent of the area median income for a single-room occupancy
2 unit type.

3 (IV) The development shall provide priority for the applicable
4 affordable units for lower income students experiencing
5 homelessness. A homeless service provider, as defined in paragraph
6 (3) of subdivision (e) of Section 103577 of the Health and Safety
7 Code, or institution of higher education that has knowledge of a
8 person's homeless status may verify a person's status as homeless
9 for purposes of this subclause.

10 (V) The student housing development is not located on a site
11 that pursuant to paragraph (3) of subdivision (c) would require
12 replacement units for projects with greater than a ~~35-percent~~
13 *35-percent* density bonus.

14 (ii) For purposes of calculating a density bonus granted pursuant
15 to this subparagraph, the term "unit" as used in this section means
16 one rental bed and its pro rata share of associated common area
17 facilities. The units described in this subparagraph are subject to
18 a recorded affordability restriction of 55 years, which shall not tie
19 any rental bed reserved for lower income students to a specific
20 bedroom. Notwithstanding any other law, an affordability
21 restriction provision, state or county law or policy, or property
22 management policy shall not prevent a lower income student from
23 sharing a room or unit with a nonlower income student. Any
24 attempted waiver of the requirements of this clause is void as
25 against public policy.

26 (G) One hundred percent of all units in the development,
27 including total units and density bonus units, but exclusive of a
28 manager's unit or units, are for lower income households, as
29 defined by Section 50079.5 of the Health and Safety Code, except
30 that up to 20 percent of the units in the development, including
31 total units and density bonus units, may be for moderate-income
32 households, as defined in Section 50053 of the Health and Safety
33 Code. For purposes of this subparagraph, "development" includes
34 a shared housing building development.

35 (2) For purposes of calculating the amount of the density bonus
36 pursuant to subdivision (f), an applicant who requests a density
37 bonus pursuant to this subdivision shall elect whether the bonus
38 shall be awarded on the basis of subparagraph (A), (B), (C), (D),
39 (E), (F), or (G) of paragraph (1).

1 (c) (1) (A) An applicant shall agree to, and the city, county,
2 or city and county shall ensure, the continued affordability of all
3 very low and low-income rental units that qualified the applicant
4 for the award of the density bonus for 55 years or a longer period
5 of time if required by the construction or mortgage financing
6 assistance program, mortgage insurance program, or rental subsidy
7 program.

8 (B) (i) Except as otherwise provided in clause (ii), rents for the
9 lower income density bonus units shall be set at an affordable rent,
10 as defined in Section 50053 of the Health and Safety Code.

11 (ii) For housing developments meeting the criteria of
12 subparagraph (G) of paragraph (1) of subdivision (b), rents for all
13 units in the development, including both base density and density
14 bonus units, shall be as follows:

15 (I) The rent for at least 20 percent of the units in the
16 development shall be set at an affordable rent, as defined in Section
17 50053 of the Health and Safety Code.

18 (II) The rent for the remaining units in the development shall
19 be set at an amount consistent with the maximum rent levels for
20 lower income households, as those rents and incomes are
21 determined by the California Tax Credit Allocation Committee.

22 (2) (A) An applicant shall agree to ensure, and the city, county,
23 or city and county shall ensure, that a for-sale unit that qualified
24 the applicant for the award of the density bonus meets one of the
25 following conditions:

26 (i) The unit is initially sold to and occupied by a person or family
27 of very low, low, or moderate income, as required, and it is offered
28 at an affordable housing cost, as that cost is defined in Section
29 50052.5 of the Health and Safety Code and is subject to an equity
30 sharing agreement.

31 (ii) If the unit is not purchased by an income-qualified person
32 or family within 180 days after the issuance of the certificate of
33 occupancy, the unit is purchased by a qualified nonprofit housing
34 corporation that meets all of the following requirements pursuant
35 to a recorded contract that satisfies all of the requirements specified
36 in paragraph (10) of subdivision (a) of Section 402.1 of the
37 Revenue and Taxation Code:

38 (I) The nonprofit corporation has a determination letter from
39 the Internal Revenue Service affirming its tax-exempt status
40 pursuant to Section 501(c)(3) of the Internal Revenue Code and

1 is not a private foundation as that term is defined in Section 509
2 of the Internal Revenue Code.

3 (II) The nonprofit corporation is based in California.

4 (III) All of the board members of the nonprofit corporation have
5 their primary residence in California.

6 (IV) The primary activity of the nonprofit corporation is the
7 development and preservation of affordable home ownership
8 housing in California that incorporates within their contracts for
9 initial purchase a repurchase option that requires a subsequent
10 purchaser of the property that desires to resell or convey the
11 property to offer the qualified nonprofit corporation the right to
12 repurchase the property prior to selling or conveying that property
13 to any other purchaser pursuant to an equity sharing agreement or
14 affordability restrictions on the sale and conveyance of the property
15 that ensure that the property will be preserved for lower income
16 housing for at least 45 years for owner-occupied housing units and
17 will be sold or resold only to persons or families of very low, low,
18 or moderate income, as defined in Section 50052.5 of the Health
19 and Safety Code.

20 (B) For purposes of this paragraph, a “qualified nonprofit
21 housing corporation” is a nonprofit housing corporation organized
22 pursuant to Section 501(c)(3) of the Internal Revenue Code that
23 has received a welfare exemption under Section 214.15 of the
24 Revenue and Taxation Code for properties intended to be sold to
25 low-income families who participate in a special no-interest loan
26 program.

27 (C) The local government shall enforce an equity sharing
28 agreement required pursuant to clause (i) or (ii) of subparagraph
29 (A), unless it is in conflict with the requirements of another public
30 funding source or law or may defer to the recapture provisions of
31 the public funding source. The following apply to the equity
32 sharing agreement:

33 (i) Upon resale, the seller of the unit shall retain the value of
34 any improvements, the downpayment, and the seller’s proportionate
35 share of appreciation.

36 (ii) Except as provided in clause (v), the local government shall
37 recapture any initial subsidy, as defined in clause (iii), and its
38 proportionate share of appreciation, as defined in clause (iv), which
39 amount shall be used within five years for any of the purposes

1 described in subdivision (e) of Section 33334.2 of the Health and
2 Safety Code that promote ~~home ownership~~; *home ownership*.

3 (iii) For purposes of this subdivision, the local government's
4 initial subsidy shall be equal to the fair market value of the home
5 at the time of initial sale minus the initial sale price to the
6 moderate-income household, plus the amount of any downpayment
7 assistance or mortgage assistance. If upon resale the market value
8 is lower than the initial market value, then the value at the time of
9 the resale shall be used as the initial market value.

10 (iv) For purposes of this subdivision, the local government's
11 proportionate share of appreciation shall be equal to the ratio of
12 the local government's initial subsidy to the fair market value of
13 the home at the time of initial sale.

14 (v) If the unit is purchased or developed by a qualified nonprofit
15 housing corporation pursuant to clause (ii) of subparagraph (A)
16 the local government may enter into a contract with the qualified
17 nonprofit housing corporation under which the qualified nonprofit
18 housing corporation would recapture any initial subsidy and its
19 proportionate share of appreciation if the qualified nonprofit
20 housing corporation is required to use 100 percent of the proceeds
21 to promote home ownership for lower income households as
22 defined by Section 50079.5 of the Health and Safety Code within
23 the jurisdiction of the local government.

24 (3) (A) Except as provided in subclause (V) of clause (i) of
25 subparagraph (F) of paragraph (1) of subdivision (b), an applicant
26 shall be ineligible for a density bonus or any other incentives or
27 concessions under this section if the housing development is
28 proposed on any property that includes a parcel or parcels on which
29 rental dwelling units are located or, if the dwelling units have been
30 vacated or demolished in the five-year period preceding the
31 application, have been subject to a recorded covenant, ordinance,
32 or law that restricts rents to levels affordable to persons and
33 families of lower or very low income; subject to any other form
34 of rent or price control through a public entity's valid exercise of
35 its police power; or occupied by lower or very low income
36 households, unless the proposed housing development replaces
37 those units, and either of the following applies:

38 (i) The proposed housing development, inclusive of the units
39 replaced pursuant to this paragraph, contains affordable units at
40 the percentages set forth in subdivision (b).

1 (ii) Each unit in the development, exclusive of a manager's unit
2 or units, is affordable to, and occupied by, either a lower or very
3 low income household.

4 (B) For the purposes of this paragraph, "replace" shall mean
5 either of the following:

6 (i) If any dwelling units described in subparagraph (A) are
7 occupied on the date of application, the proposed housing
8 development shall provide at least the same number of units of
9 equivalent size to be made available at affordable rent or affordable
10 housing cost to, and occupied by, persons and families in the same
11 or lower income category as those households in occupancy. If
12 the income category of the household in occupancy is not known,
13 it shall be rebuttably presumed that lower income renter households
14 occupied these units in the same proportion of lower income renter
15 households to all renter households within the jurisdiction, as
16 determined by the most recently available data from the United
17 States Department of Housing and Urban Development's
18 Comprehensive Housing Affordability Strategy database. For
19 unoccupied dwelling units described in subparagraph (A) in a
20 development with occupied units, the proposed housing
21 development shall provide units of equivalent size to be made
22 available at affordable rent or affordable housing cost to, and
23 occupied by, persons and families in the same or lower income
24 category as the last household in occupancy. If the income category
25 of the last household in occupancy is not known, it shall be
26 rebuttably presumed that lower income renter households occupied
27 these units in the same proportion of lower income renter
28 households to all renter households within the jurisdiction, as
29 determined by the most recently available data from the United
30 States Department of Housing and Urban Development's
31 Comprehensive Housing Affordability Strategy database. All
32 replacement calculations resulting in fractional units shall be
33 rounded up to the next whole number. If the replacement units will
34 be rental dwelling units, these units shall be subject to a recorded
35 affordability restriction for at least 55 years. If the proposed
36 development is for-sale units, the units replaced shall be subject
37 to paragraph (2).

38 (ii) If all dwelling units described in subparagraph (A) have
39 been vacated or demolished within the five-year period preceding
40 the application, the proposed housing development shall provide

1 at least the same number of units of equivalent size as existed at
2 the highpoint of those units in the five-year period preceding the
3 application to be made available at affordable rent or affordable
4 housing cost to, and occupied by, persons and families in the same
5 or lower income category as those persons and families in
6 occupancy at that time, if known. If the incomes of the persons
7 and families in occupancy at the highpoint is not known, it shall
8 be rebuttably presumed that low-income and very low income
9 renter households occupied these units in the same proportion of
10 low-income and very low income renter households to all renter
11 households within the jurisdiction, as determined by the most
12 recently available data from the United States Department of
13 Housing and Urban Development's Comprehensive Housing
14 Affordability Strategy database. All replacement calculations
15 resulting in fractional units shall be rounded up to the next whole
16 number. If the replacement units will be rental dwelling units,
17 these units shall be subject to a recorded affordability restriction
18 for at least 55 years. If the proposed development is for-sale units,
19 the units replaced shall be subject to paragraph (2).

20 (C) Notwithstanding subparagraph (B), for any dwelling unit
21 described in subparagraph (A) that is or was, within the five-year
22 period preceding the application, subject to a form of rent or price
23 control through a local government's valid exercise of its police
24 power and that is or was occupied by persons or families above
25 lower income, the city, county, or city and county may do either
26 of the following:

27 (i) Require that the replacement units be made available at
28 affordable rent or affordable housing cost to, and occupied by,
29 low-income persons or families. If the replacement units will be
30 rental dwelling units, these units shall be subject to a recorded
31 affordability restriction for at least 55 years. If the proposed
32 development is for-sale units, the units replaced shall be subject
33 to paragraph (2).

34 (ii) Require that the units be replaced in compliance with the
35 jurisdiction's rent or price control ordinance, provided that each
36 unit described in subparagraph (A) is replaced. Unless otherwise
37 required by the jurisdiction's rent or price control ordinance, these
38 units shall not be subject to a recorded affordability restriction.

1 (D) For purposes of this paragraph, “equivalent size” means
2 that the replacement units contain at least the same total number
3 of bedrooms as the units being replaced.

4 (E) Subparagraph (A) does not apply to an applicant seeking a
5 density bonus for a proposed housing development if the
6 applicant’s application was submitted to, or processed by, a city,
7 county, or city and county before January 1, 2015.

8 ~~(4) An applicant shall be ineligible for a density bonus or any~~
9 ~~other incentives or concessions under this section, unless the~~
10 ~~applicant agrees to, and the city, county, or city and county ensures,~~
11 ~~the commitment to record a land use restriction or covenant~~
12 ~~providing that a unit of development shall not be listed as a~~
13 ~~short-term rental unit.~~

14 (d) (1) An applicant for a density bonus pursuant to subdivision
15 (b) may submit to a city, county, or city and county a proposal for
16 the specific incentives or concessions that the applicant requests
17 pursuant to this section, and may request a meeting with the city,
18 county, or city and county. The city, county, or city and county
19 shall grant the concession or incentive requested by the applicant
20 unless the city, county, or city and county makes a written finding,
21 based upon substantial evidence, of any of the following:

22 (A) The concession or incentive does not result in identifiable
23 and actual cost reductions, consistent with subdivision (j), to
24 provide for affordable housing costs, as defined in Section 50052.5
25 of the Health and Safety Code, or for rents for the targeted units
26 to be set as specified in subdivision (c).

27 (B) The concession or incentive would have a specific, adverse
28 impact, as defined in paragraph (2) of subdivision (d) of Section
29 65589.5, upon public health and safety or on any real property that
30 is listed in the California Register of Historical Resources and for
31 which there is no feasible method to satisfactorily mitigate or avoid
32 the specific, adverse impact without rendering the development
33 unaffordable to low-income and moderate-income households.

34 (C) The concession or incentive would be contrary to state or
35 federal law.

36 (2) The applicant shall receive the following number of
37 incentives or concessions:

38 (A) One incentive or concession for projects that include at least
39 10 percent of the total units for lower income households, at least
40 5 percent for very low income households, or at least 10 percent

1 for persons and families of moderate income in a development in
2 which the units are for sale.

3 (B) Two incentives or concessions for projects that include at
4 least 17 percent of the total units for lower income households, at
5 least 10 percent for very low income households, or at least 20
6 percent for persons and families of moderate income in a
7 development in which the units are for sale.

8 (C) Three incentives or concessions for projects that include at
9 least 24 percent of the total units for lower income households, at
10 least 15 percent for very low income households, or at least 30
11 percent for persons and families of moderate income in a
12 development in which the units are for sale.

13 (D) Five incentives or concessions for a project meeting the
14 criteria of subparagraph (G) of paragraph (1) of subdivision (b).
15 If the project is located within one-half mile of a major transit stop
16 or is located in a very low vehicle travel area in a designated
17 county, the applicant shall also receive a height increase of up to
18 three additional stories, or 33 feet.

19 (E) One incentive or concession for projects that include at least
20 20 percent of the total units for lower income students in a student
21 housing development. If a project includes at least 23 percent of
22 the total units for lower income students in a student housing
23 project, the applicant shall instead receive two incentives or
24 concessions.

25 (F) Four incentives or concessions for projects that include at
26 least 16 percent of the units for very low income households or at
27 least 45 percent for persons and families of moderate income in a
28 development in which the units are for sale.

29 (3) The applicant may initiate judicial proceedings if the city,
30 county, or city and county refuses to grant a requested density
31 bonus, incentive, or concession. If a court finds that the refusal to
32 grant a requested density bonus, incentive, or concession is in
33 violation of this section, the court shall award the plaintiff
34 reasonable attorney's fees and costs of suit. This subdivision shall
35 not be interpreted to require a local government to grant an
36 incentive or concession that has a specific, adverse impact, as
37 defined in paragraph (2) of subdivision (d) of Section 65589.5,
38 upon health or safety, and for which there is no feasible method
39 to satisfactorily mitigate or avoid the specific, adverse impact.
40 This subdivision shall not be interpreted to require a local

1 government to grant an incentive or concession that would have
2 an adverse impact on any real property that is listed in the
3 California Register of Historical Resources. The city, county, or
4 city and county shall establish procedures for carrying out this
5 section that shall include legislative body approval of the means
6 of compliance with this section.

7 (4) The city, county, or city and county shall bear the burden
8 of proof for the denial of a requested concession or incentive.

9 (5) *For a mixed-use development containing a hotel, motel, bed*
10 *and breakfast inn, or other visitor-serving purpose, an incentive*
11 *or concession granted pursuant to this subdivision shall not be*
12 *applied to the portion of the proposed development containing*
13 *hotel, motel, bed and breakfast inn, or other visitor-serving purpose*
14 *use.*

15 (e) (1) In no case may a city, county, or city and county apply
16 any development standard that will have the effect of physically
17 precluding the construction of a development meeting the criteria
18 of subdivision (b) at the densities or with the concessions or
19 incentives permitted by this section. Subject to paragraph (3), an
20 applicant may submit to a city, county, or city and county a
21 proposal for the waiver or reduction of development standards that
22 will have the effect of physically precluding the construction of a
23 development meeting the criteria of subdivision (b) at the densities
24 or with the concessions or incentives permitted under this section,
25 and may request a meeting with the city, county, or city and county.
26 If a court finds that the refusal to grant a waiver or reduction of
27 development standards is in violation of this section, the court
28 shall award the plaintiff reasonable attorney's fees and costs of
29 suit. This subdivision shall not be interpreted to require a local
30 government to waive or reduce development standards if the waiver
31 or reduction would have a specific, adverse impact, as defined in
32 paragraph (2) of subdivision (d) of Section 65589.5, upon health
33 or safety, and for which there is no feasible method to satisfactorily
34 mitigate or avoid the specific, adverse impact. This subdivision
35 shall not be interpreted to require a local government to waive or
36 reduce development standards that would have an adverse impact
37 on any real property that is listed in the California Register of
38 Historical Resources, or to grant any waiver or reduction that would
39 be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density, as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Low-Income Units | Percentage Density Bonus |
|-----------------------------|--------------------------|
| 10 | 20 |
| 11 | 21.5 |
| 12 | 23 |
| 13 | 24.5 |
| 14 | 26 |
| 15 | 27.5 |
| 16 | 29 |
| 17 | 30.5 |
| 18 | 32 |
| 19 | 33.5 |
| 20 | 35 |
| 21 | 38.75 |
| 22 | 42.5 |

| | | |
|---|----|-------|
| 1 | 23 | 46.25 |
| 2 | 24 | 50 |

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Very Low Income Units | Percentage Density Bonus |
|----------------------------------|--------------------------|
| 5 | 20 |
| 6 | 22.5 |
| 7 | 25 |
| 8 | 27.5 |
| 9 | 30 |
| 10 | 32.5 |
| 11 | 35 |
| 12 | 38.75 |
| 13 | 42.5 |
| 14 | 46.25 |
| 15 | 50 |

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Lower Income Units | Percentage Density Bonus |
|-------------------------------|--------------------------|
| 20 | 35 |
| 21 | 38.75 |
| 22 | 42.5 |
| 23 | 46.25 |
| 24 | 50 |

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

| Percentage Moderate-Income Units | Percentage Density Bonus |
|----------------------------------|--------------------------|
| 10 | 5 |
| 11 | 6 |
| 12 | 7 |
| 13 | 8 |
| 14 | 9 |
| 15 | 10 |
| 16 | 11 |
| 17 | 12 |
| 18 | 13 |
| 19 | 14 |
| 20 | 15 |
| 21 | 16 |
| 22 | 17 |
| 23 | 18 |
| 24 | 19 |
| 25 | 20 |
| 26 | 21 |
| 27 | 22 |
| 28 | 23 |
| 29 | 24 |
| 30 | 25 |
| 31 | 26 |
| 32 | 27 |

| | | |
|----|----|-------|
| 1 | 33 | 28 |
| 2 | 34 | 29 |
| 3 | 35 | 30 |
| 4 | 36 | 31 |
| 5 | 37 | 32 |
| 6 | 38 | 33 |
| 7 | 39 | 34 |
| 8 | 40 | 35 |
| 9 | 41 | 38.75 |
| 10 | 42 | 42.5 |
| 11 | 43 | 46.25 |
| 12 | 44 | 50 |

13
14 (5) All density calculations resulting in fractional units shall be
15 rounded up to the next whole number. The granting of a density
16 bonus shall not require, or be interpreted, in and of itself, to require
17 a general plan amendment, local coastal plan amendment, zoning
18 change, or other discretionary approval.

19 (g) (1) When an applicant for a tentative subdivision map,
20 parcel map, or other residential development approval donates
21 land to a city, county, or city and county in accordance with this
22 subdivision, the applicant shall be entitled to a 15-percent increase
23 above the otherwise maximum allowable residential density for
24 the entire development, as follows:

| Percentage Very Low Income | Percentage Density Bonus |
|----------------------------|--------------------------|
| 10 | 15 |
| 11 | 16 |
| 12 | 17 |
| 13 | 18 |
| 14 | 19 |
| 15 | 20 |
| 16 | 21 |
| 17 | 22 |
| 18 | 23 |
| 19 | 24 |
| 20 | 25 |
| 21 | 26 |
| 22 | 27 |
| 23 | 28 |

| | | |
|---|----|----|
| 1 | 24 | 29 |
| 2 | 25 | 30 |
| 3 | 26 | 31 |
| 4 | 27 | 32 |
| 5 | 28 | 33 |
| 6 | 29 | 34 |
| 7 | 30 | 35 |

8

9 (2) This increase shall be in addition to any increase in density
10 mandated by subdivision (b), up to a maximum combined mandated
11 density increase of 35 percent if an applicant seeks an increase
12 pursuant to both this subdivision and subdivision (b). All density
13 calculations resulting in fractional units shall be rounded up to the
14 next whole number. Nothing in this subdivision shall be construed
15 to enlarge or diminish the authority of a city, county, or city and
16 county to require a developer to donate land as a condition of
17 development. An applicant shall be eligible for the increased
18 density bonus described in this subdivision if all of the following
19 conditions are met:

20 (A) The applicant donates and transfers the land no later than
21 the date of approval of the final subdivision map, parcel map, or
22 residential development application.

23 (B) The developable acreage and zoning classification of the
24 land being transferred are sufficient to permit construction of units
25 affordable to very low income households in an amount not less
26 than 10 percent of the number of residential units of the proposed
27 development.

28 (C) The transferred land is at least one acre in size or of
29 sufficient size to permit development of at least 40 units, has the
30 appropriate general plan designation, is appropriately zoned with
31 appropriate development standards for development at the density
32 described in paragraph (3) of subdivision (c) of Section 65583.2,
33 and is or will be served by adequate public facilities and
34 infrastructure.

35 (D) The transferred land shall have all of the permits and
36 approvals, other than building permits, necessary for the
37 development of the very low income housing units on the
38 transferred land, not later than the date of approval of the final
39 subdivision map, parcel map, or residential development
40 application, except that the local government may subject the

1 proposed development to subsequent design review to the extent
2 authorized by subdivision (i) of Section 65583.2 if the design is
3 not reviewed by the local government before the time of transfer.

4 (E) The transferred land and the affordable units shall be subject
5 to a deed restriction ensuring continued affordability of the units
6 consistent with paragraphs (1) and (2) of subdivision (c), which
7 shall be recorded on the property at the time of the transfer.

8 (F) The land is transferred to the local agency or to a housing
9 developer approved by the local agency. The local agency may
10 require the applicant to identify and transfer the land to the
11 developer.

12 (G) The transferred land shall be within the boundary of the
13 proposed development or, if the local agency agrees, within
14 one-quarter mile of the boundary of the proposed development.

15 (H) A proposed source of funding for the very low income units
16 shall be identified not later than the date of approval of the final
17 subdivision map, parcel map, or residential development
18 application.

19 (h) (1) When an applicant proposes to construct a housing
20 development that conforms to the requirements of subdivision (b)
21 and includes a childcare facility that will be located on the premises
22 of, as part of, or adjacent to, the project, the city, county, or city
23 and county shall grant either of the following:

24 (A) An additional density bonus that is an amount of square
25 feet of residential space that is equal to or greater than the amount
26 of square feet in the childcare facility.

27 (B) An additional concession or incentive that contributes
28 significantly to the economic feasibility of the construction of the
29 childcare facility.

30 (2) The city, county, or city and county shall require, as a
31 condition of approving the housing development, that the following
32 occur:

33 (A) The childcare facility shall remain in operation for a period
34 of time that is as long as or longer than the period of time during
35 which the density bonus units are required to remain affordable
36 pursuant to subdivision (c).

37 (B) Of the children who attend the childcare facility, the children
38 of very low income households, lower income households, or
39 families of moderate income shall equal a percentage that is equal
40 to or greater than the percentage of dwelling units that are required

1 for very low income households, lower income households, or
2 families of moderate income pursuant to subdivision (b).

3 (3) Notwithstanding any requirement of this subdivision, a city,
4 county, or city and county shall not be required to provide a density
5 bonus or concession for a childcare facility if it finds, based upon
6 substantial evidence, that the community has adequate childcare
7 facilities.

8 (4) “Childcare facility,” as used in this section, means a child
9 daycare facility other than a family daycare home, including, but
10 not limited to, infant centers, preschools, extended daycare
11 facilities, and schoolage childcare centers.

12 (i) (1) The granting of a concession or incentive shall not require
13 or be interpreted, in and of itself, to require a general plan
14 amendment, local coastal plan amendment, zoning change, study,
15 or other discretionary approval. For purposes of this subdivision,
16 “study” does not include reasonable documentation to establish
17 eligibility for the concession or incentive or to demonstrate that
18 the incentive or concession meets the definition set forth in
19 subdivision (j). This provision is declaratory of existing law.

20 (2) Except as provided in subdivisions (d) and (e), the granting
21 of a density bonus shall not require or be interpreted to require the
22 waiver of a local ordinance or provisions of a local ordinance
23 unrelated to development standards.

24 (j) For the purposes of this chapter, concession or incentive
25 means any of the following:

26 (1) A reduction in site development standards or a modification
27 of zoning code requirements or architectural design requirements
28 that exceed the minimum building standards approved by the
29 California Building Standards Commission as provided in Part 2.5
30 (commencing with Section 18901) of Division 13 of the Health
31 and Safety Code, including, but not limited to, a reduction in
32 setback and square footage requirements and in the ratio of
33 vehicular parking spaces that would otherwise be required that
34 results in identifiable and actual cost reductions, to provide for
35 affordable housing costs, as defined in Section 50052.5 of the
36 Health and Safety Code, or for rents for the targeted units to be
37 set as specified in subdivision (c).

38 (2) Approval of mixed-use zoning in conjunction with the
39 housing project if commercial, office, industrial, or other land uses
40 will reduce the cost of the housing development and if the

1 commercial, office, industrial, or other land uses are compatible
2 with the housing project and the existing or planned development
3 in the area where the proposed housing project will be located.

4 (3) Other regulatory incentives or concessions proposed by the
5 developer or the city, county, or city and county that result in
6 identifiable and actual cost reductions to provide for affordable
7 housing costs, as defined in Section 50052.5 of the Health and
8 Safety Code, or for rents for the targeted units to be set as specified
9 in subdivision (c).

10 (k) Subdivision (j) does not limit or require the provision of
11 direct financial incentives for the housing development, including
12 the provision of publicly owned land, by the city, county, or city
13 and county, or the waiver of fees or dedication requirements.

14 (l) This section does not supersede or in any way alter or lessen
15 the effect or application of the California Coastal Act of 1976
16 (Division 20 (commencing with Section 30000) of the Public
17 Resources Code). Any density bonus, concessions, incentives,
18 waivers or reductions of development standards, and parking ratios
19 to which the applicant is entitled under this section shall be
20 permitted in a manner that is consistent with this section and
21 Division 20 (commencing with Section 30000) of the Public
22 Resources Code.

23 (m) If permitted by local ordinance, nothing in this section shall
24 be construed to prohibit a city, county, or city and county from
25 granting a density bonus greater than what is described in this
26 section for a development that meets the requirements of this
27 section or from granting a proportionately lower density bonus
28 than what is required by this section for developments that do not
29 meet the requirements of this section.

30 (n) For purposes of this section, the following definitions shall
31 apply:

32 (1) "Designated county" includes the Counties of Alameda,
33 Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside,
34 Sacramento, San Bernardino, San Diego, San Mateo, Santa
35 Barbara, Santa Clara, Solano, Sonoma, and Ventura, and the City
36 and County of San Francisco.

37 (2) "Development standard" includes a site or construction
38 condition, including, but not limited to, a height limitation, a
39 setback requirement, a floor area ratio, an onsite open-space
40 requirement, a minimum lot area per unit requirement, or a parking

ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation that is adopted by the local government or that is enacted by the local government's electorate exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the local government.

(3) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(4) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(5) "Lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or

1 letter of eligibility provided by the institution of higher education
2 in which the student is enrolled or by the Student Aid Commission
3 that the student receives or is eligible for financial aid, including
4 an institutional grant or fee waiver from the college or university,
5 the Student Aid Commission, or the federal government.

6 (6) “Major transit stop” has the same meaning as defined in
7 subdivision (b) of Section 21155 of the Public Resources Code.

8 (7) “Maximum allowable residential density” or “base density”
9 means the greatest number of units allowed under the zoning
10 ordinance, specific plan, or land use element of the general plan,
11 or, if a range of density is permitted, means the greatest number
12 of units allowed by the specific zoning range, specific plan, or land
13 use element of the general plan applicable to the project. Density
14 shall be determined using dwelling units per acre. However, if the
15 applicable zoning ordinance, specific plan, or land use element of
16 the general plan does not provide a dwelling-units-per-acre standard
17 for density, then the local agency shall calculate the number of
18 units by:

19 (A) Estimating the realistic development capacity of the site
20 based on the objective development standards applicable to the
21 project, including, but not limited to, floor area ratio, site coverage,
22 maximum building height and number of stories, building setbacks
23 and stepbacks, public and private open-space requirements,
24 minimum percentage or square footage of any nonresidential
25 component, and parking requirements, unless not required for the
26 base project. Parking requirements shall include considerations
27 regarding number of spaces, location, design, type, and circulation.
28 A developer may provide a base density study and the local agency
29 shall accept it, provided that it includes all applicable objective
30 development standards.

31 (B) Maintaining the same average unit size and other project
32 details relevant to the base density study, excepting those that may
33 be modified by waiver or concession to accommodate the bonus
34 units, in the proposed project as in the study.

35 (8) ~~“Mixed-use development” means a development that meets~~
36 ~~both of the following criteria:~~

37 ~~(A) At least 70 percent of the square footage of the proposed~~
38 ~~development is designated for residential uses.~~

~~(B) No square footage of the proposed development is designated for use as a hotel, motel, bed and breakfast inn, or other visitor-serving purposes.~~

~~(9)~~

(8) (A) (i) “Shared housing building” means a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(ii) A “shared housing building” may include other dwelling units that are not shared housing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the shared housing building. A shared housing building may include 100 percent shared housing units.

(B) (i) “Shared housing unit” means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the “minimum room area” specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of “guestroom” in Section R202 of the California Residential Code. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(ii) “Shared housing unit” for purposes of a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, includes a unit without an individual kitchen where a unit may be shared by unrelated persons, and a unit where a room that may be shared by unrelated persons meets the “minimum room area” requirements of clause (i).

~~(10) “Short-term rental” means a residential dwelling, or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less.~~

~~(11)~~

(9) “Student housing development” means a development that contains bedrooms containing two or more bedspaces that have a shared or private bathroom, access to a shared or private living room and laundry facilities, and access to a shared or private kitchen.

~~(12)~~

(10) (A) “Total units” or “total dwelling units” means a calculation of the number of units that:

(i) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(ii) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(B) For purposes of calculating a density bonus granted pursuant to this section for a shared housing building, “unit” means one shared housing unit and its pro rata share of associated common area facilities.

~~(13)~~

(11) “Very low vehicle travel area” means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. For purposes of this paragraph, “area” may include a travel analysis zone, hexagon, or grid. For the purposes of determining “regional vehicle miles traveled per capita” pursuant to this paragraph, a “region” is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(o) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

1 (D) One bedspace in a student housing development: zero
2 parking spaces.

3 (2) (A) Notwithstanding paragraph (1), if a development
4 includes at least 20 percent low-income units for housing
5 developments meeting the criteria of subparagraph (A) of paragraph
6 (1) of subdivision (b) or at least 11 percent very low income units
7 for housing developments meeting the criteria of subparagraph
8 (B) of paragraph (1) of subdivision (b), is located within one-half
9 mile of a major transit stop, and there is unobstructed access to
10 the major transit stop from the development, then, upon the request
11 of the developer, a city, county, or city and county shall not impose
12 a vehicular parking ratio, inclusive of parking for persons with a
13 disability and guests, that exceeds 0.5 spaces per unit.
14 Notwithstanding paragraph (1), if a development includes at least
15 40 percent moderate-income units for housing developments
16 meeting the criteria of subparagraph (D) of paragraph (1) of
17 subdivision (b), is located within one-half mile of a major transit
18 stop, as defined in subdivision (b) of Section 21155 of the Public
19 Resources Code, and the residents of the development have
20 unobstructed access to the major transit stop from the development
21 then, upon the request of the developer, a city, county, or city and
22 county shall not impose a vehicular parking ratio, inclusive of
23 parking for persons with a disability and guests, that exceeds 0.5
24 spaces per bedroom.

25 (B) For purposes of this subdivision, “unobstructed access to
26 the major transit stop” means a resident is able to access the major
27 transit stop without encountering natural or constructed
28 impediments. For purposes of this subparagraph, “natural or
29 constructed impediments” includes, but is not limited to, freeways,
30 rivers, mountains, and bodies of water, but does not include
31 residential structures, shopping centers, parking lots, or rails used
32 for transit.

33 (3) Notwithstanding paragraph (1), if a development meets the
34 criteria of subparagraph (G) of paragraph (1) of subdivision (b),
35 then, upon the request of the developer, a city, county, or city and
36 county shall not impose vehicular parking standards if the
37 development meets any of the following criteria:

38 (A) The development is located within one-half mile of a major
39 transit stop and there is unobstructed access to the major transit
40 stop from the development.

1 (B) The development is a for-rent housing development for
2 individuals who are 55 years of age or older that complies with
3 Sections 51.2 and 51.3 of the Civil Code and the development has
4 either paratransit service or unobstructed access, within one-half
5 mile, to fixed bus route service that operates at least eight times
6 per day.

7 (C) The development is either a special needs housing
8 development, as defined in Section 51312 of the Health and Safety
9 Code, or a supportive housing development, as defined in Section
10 50675.14 of the Health and Safety Code. A development that is a
11 special needs housing development shall have either paratransit
12 service or unobstructed access, within one-half mile, to fixed bus
13 route service that operates at least eight times per day.

14 (4) If the total number of parking spaces required for a
15 development is other than a whole number, the number shall be
16 rounded up to the next whole number. For purposes of this
17 subdivision, a development may provide onsite parking through
18 tandem parking or uncovered parking, but not through onstreet
19 parking.

20 (5) This subdivision shall apply to a development that meets
21 the requirements of subdivisions (b) and (c), but only at the request
22 of the applicant. An applicant may request parking incentives or
23 concessions beyond those provided in this subdivision pursuant
24 to subdivision (d).

25 (6) This subdivision does not preclude a city, county, or city
26 and county from reducing or eliminating a parking requirement
27 for development projects of any type in any location.

28 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
29 city and county, or an independent consultant has conducted an
30 areawide or jurisdictionwide parking study in the last seven years,
31 then the city, county, or city and county may impose a higher
32 vehicular parking ratio not to exceed the ratio described in
33 paragraph (1), based upon substantial evidence found in the parking
34 study, that includes, but is not limited to, an analysis of parking
35 availability, differing levels of transit access, walkability access
36 to transit services, the potential for shared parking, the effect of
37 parking requirements on the cost of market-rate and subsidized
38 developments, and the lower rates of car ownership for low-income
39 and very low income individuals, including seniors and special
40 needs individuals. The city, county, or city and county shall pay

1 the costs of any new study. The city, county, or city and county
2 shall make findings, based on a parking study completed in
3 conformity with this paragraph, supporting the need for the higher
4 parking ratio.

5 (8) A request pursuant to this subdivision shall neither reduce
6 nor increase the number of incentives or concessions to which the
7 applicant is entitled pursuant to subdivision (d).

8 (p) Each component of any density calculation, including base
9 density and bonus density, resulting in fractional units shall be
10 separately rounded up to the next whole number. The Legislature
11 finds and declares that this provision is declaratory of existing law.

12 (q) This chapter shall be interpreted liberally in favor of
13 producing the maximum number of total housing units.

14 (r) Notwithstanding any other law, if a city, including a charter
15 city, county, or city and county has adopted an ordinance or a
16 housing program, or both an ordinance and a housing program,
17 that incentivizes the development of affordable housing that allows
18 for density bonuses that exceed the density bonuses required by
19 the version of this section effective through December 31, 2020,
20 that city, county, or city and county is not required to amend or
21 otherwise update its ordinance or corresponding affordable housing
22 incentive program to comply with the amendments made to this
23 section by the act adding this subdivision, and is exempt from
24 complying with the incentive and concession calculation
25 amendments made to this section by the act adding this subdivision
26 as set forth in subdivision (d), particularly subparagraphs (B) and
27 (C) of paragraph (2) of that subdivision, and the amendments made
28 to the density tables under subdivision (f).

29 (s) When an applicant proposes to construct a housing
30 development that conforms to the requirements of subparagraph
31 (A) or (B) of paragraph (1) of subdivision (b) that is a shared
32 housing building, the city, county, or city and county shall not
33 require any minimum unit size requirements or minimum bedroom
34 requirements that are in conflict with paragraph—(9) (8) of
35 subdivision (n).

36 (t) (1) The Legislature finds and declares that the intent behind
37 the Density Bonus Law is to allow public entities to reduce or even
38 eliminate subsidies for a particular project by allowing a developer
39 to include more total units in a project than would otherwise be
40 allowed by the local zoning ordinance in exchange for affordable

units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.

(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

(u) (1) Provided that the resulting housing development would not restrict more than 50 percent of the total units to moderate-income, lower income, or very low income households, a city, county, or city and county shall grant an additional density bonus calculated pursuant to paragraph (2) when an applicant proposes to construct a housing development that conforms to the requirements of paragraph (1) of subdivision (b), agrees to include additional rental or for-sale units affordable to very low income households or moderate-income households, and meets any of the following requirements:

(A) The housing development conforms to the requirements of subparagraph (A) of paragraph (1) of subdivision (b) and provides 24 percent of the total units to lower income households.

(B) The housing development conforms to the requirements of subparagraph (B) of paragraph (1) of subdivision (b) and provides 15 percent of the total units to very low income households.

(C) The housing development conforms to the requirements of subparagraph (D) of paragraph (1) of subdivision (b) and provides 44 percent of the total units to moderate-income households.

(2) A city, county, or city and county shall grant an additional density bonus for a housing development that meets the requirements of paragraph (1), calculated as follows:

| Percentage Very Low Income Units | Percentage Density Bonus |
|----------------------------------|--------------------------|
| 5 | 20 |
| 6 | 23.75 |

| | | |
|----|----------------------------------|--------------------------|
| 1 | 7 | 27.5 |
| 2 | 8 | 31.25 |
| 3 | 9 | 35 |
| 4 | 10 | 38.75 |
| 5 | | |
| 6 | Percentage Moderate-Income Units | Percentage Density Bonus |
| 7 | 5 | 20 |
| 8 | 6 | 22.5 |
| 9 | 7 | 25 |
| 10 | 8 | 27.5 |
| 11 | 9 | 30 |
| 12 | 10 | 32.5 |
| 13 | 11 | 35 |
| 14 | 12 | 38.75 |
| 15 | 13 | 42.5 |
| 16 | 14 | 46.25 |
| 17 | 15 | 50 |

18

19 (3) The increase required by paragraphs (1) and (2) shall be in
 20 addition to any increase in density granted by subdivision (b).

21 (4) The additional density bonus required under this subdivision
 22 shall be calculated using the number of units excluding any density
 23 bonus awarded by this section.

24 SEC. 6. Section 65915.3 of the Government Code is amended
 25 to read:

26 65915.3. (a) As used in this section, the following terms have
 27 the following meanings:

28 (1) "Housing development" has the same meaning as defined
 29 in Section 65915.

30 (2) "Monitoring fee" means a fee charged by a city, county, or
 31 city and county on a recurring basis to oversee and ensure the
 32 continued affordability of a housing development pursuant to either
 33 of the following:

34 (A) Section 65915.

35 (B) Any applicable local inclusionary housing ordinance.

36 (b) Except as provided in subdivision (d), a city, county, or city
 37 and county shall not charge a monitoring fee on a housing
 38 development if all of the following conditions are met:

39 (1) The housing development meets the criteria of subparagraph
 40 (G) of paragraph (1) of subdivision (b) of Section 65915.

1 (2) The applicant received a density bonus pursuant to Section
2 65915 for the housing development.

3 (3) The housing development is subject to a recorded regulatory
4 agreement with the California Tax Credit Allocation Committee,
5 the California Housing Finance Agency, or the Department of
6 Housing and Community Development that requires compliance
7 with subparagraph (G) of paragraph (1) of subdivision (b) of
8 Section 65915.

9 (4) Prior to receiving a building permit, the applicant provides
10 to the local government a fully executed Tax Credit Reservation
11 Letter indicating that the applicant accepted the award.

12 (5) The applicant provides to the local government a copy of a
13 recorded regulatory agreement with the California Tax Credit
14 Allocation Committee, the California Housing Finance Agency,
15 or the Department of Housing and Community Development.

16 (6) The applicant agreed to provide to the local government the
17 compliance monitoring document required pursuant to the
18 California Tax Credit Allocation Committee, the California
19 Housing Finance Agency, or the Department of Housing and
20 Community Development regulations.

21 (c) Beginning on January 1, 2025, a housing development that
22 is currently placed in service, is subject to a monitoring fee, and
23 meets the requirements of subdivision (b) shall no longer be subject
24 to that fee.

25 (d) Notwithstanding subdivisions (b) and (c), a city, county, or
26 city and county may charge a monitoring fee on a housing
27 development that meets the criteria of subparagraph (G) of
28 paragraph (1) of subdivision (b) of Section 65915 if any of the
29 following conditions are met:

30 (1) The applicant utilizes a local incentive program that results
31 in the development of units with deeper affordability, including a
32 higher number of affordable units than what is monitored for by
33 the California Tax Credit Allocation Committee, the California
34 Housing Finance Agency, or the Department of Housing and
35 Community Development.

36 (2) The applicant uses a local incentive program that results in
37 the development of units that are affordable to and occupied by
38 ~~moderate-income~~ *moderate-income* households.

39 (3) The applicant accepts a local funding source that results in
40 the development of units with different affordability, measured

1 through higher or lower area median income or through higher or
2 lower rents, than what is monitored for by the California Tax *Credit*
3 Allocation Committee, the California Housing Finance Agency,
4 or the Department of Housing and Community Development.

5 (4) The applicant accepts funding from a regional, state, or
6 federal agency other than the California Tax Credit Allocation
7 Committee, the California Debt Limit Allocation Committee, the
8 California Housing Finance Agency, or the Department of Housing
9 and Community Development that requires local monitoring
10 activities that would not otherwise be conducted by the California
11 Tax *Credit* Allocation Committee, the Department of Housing and
12 Community Development, or the public agency issuing the funding.

13 (e) A city, county, or city and county that is not collecting a
14 monitoring fee pursuant to this section shall not have any obligation
15 to monitor a housing development for compliance with Section
16 65915.

17 SEC. 7. The Legislature finds and declares that Section 5 of
18 this act amending Section 65915 of the Government Code
19 addresses a matter of statewide concern rather than a municipal
20 affair as that term is used in Section 5 of Article XI of the
21 California Constitution. Therefore, Section 5 of this act applies to
22 all cities, including charter cities.

23 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
24 ~~Section 6 of Article XIII B of the California Constitution because~~
25 ~~a local agency or school district has the authority to levy service~~
26 ~~charges, fees, or assessments sufficient to pay for the program or~~
27 ~~level of service mandated by this act, within the meaning of Section~~
28 ~~17556 of the Government Code.~~