

AMENDED IN SENATE MAY 1, 2019
AMENDED IN SENATE MARCH 11, 2019

SENATE BILL

No. 50

Introduced by Senator Wiener

(Coauthors: Senators Caballero, Hueso, Moorlach, Skinner, and Stone)

(Coauthors: Assembly Members Burke, *Chu*, Diep, Fong, Kalra, Kiley, Low, *McCarty*, Robert Rivas, Ting, and Wicks)

December 3, 2018

An act to amend Section 65589.5 of, *to add Sections 65913.5 and 65913.6 to*, and to add Chapter 4.35 (commencing with Section 65918.50) to Division 1 of Title 7 ~~of~~ *of*, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Wiener. Planning and zoning: housing development: incentives.

~~Existing~~

(1) Existing law authorizes a development proponent to submit an application for a multifamily housing development that satisfies specified planning objective standards to be subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit.

This bill would authorize a development proponent of a neighborhood multifamily project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit. The bill would define a "neighborhood multifamily project" to mean a project to construct a multifamily structure on vacant land, or to convert an existing structure that does

not require substantial exterior alteration into a multifamily structure, consisting of up to 4 residential dwelling units and that meets local height, setback, and lot coverage zoning requirements as they existed on July 1, 2019. The bill would also define “eligible parcel” to mean a parcel that meets specified requirements, including requirements relating to the location of the parcel and restricting the demolition of certain housing development that may already exist on the site.

This bill would require a local agency to notify the development proponent in writing if the local agency determines that the development conflicts with any of the requirements provided for streamlined ministerial approval; otherwise, the development is deemed to comply with those requirements. The bill would limit the authority of a local agency to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that the approval of a project under these provisions expires automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would provide that approval pursuant to its provisions would remain valid for 3 years and remain valid thereafter, so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would prohibit a local agency from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions.

This bill would allow a local agency to exempt a project from the streamlined ministerial approval process described above by finding that the project will cause a specific adverse impact to public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the

environment. CEQA does not apply to the approval of ministerial projects.

This bill would establish a streamlined ministerial approval process for neighborhood multifamily and transit-oriented projects, thereby exempting these projects from the CEQA approval process.

(2) Existing law, known as the ~~Density Bonus Law~~, density bonus law, requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would require a city, county, or city and county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development, as defined, that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project, as those terms are defined; the site does not contain, or has not contained, housing occupied by tenants or accommodations withdrawn from rent or lease in accordance with specified law within specified time periods; and the residential development complies with specified additional requirements under existing law. *The bill would impose additional requirements on a residential development located within a county with a population equal to or less than 600,000. The bill would require that a residential development within a county with a population greater than 600,000 that is eligible for an equitable communities incentive ~~receive~~ receive, upon request, waivers from maximum controls on density and minimum ~~controls on~~ automobile parking requirements greater than 0.5 parking spots per unit, up to 3 additional incentives or concessions under the ~~Density Bonus Law~~, and unit. The bill would require that a residential development also receive specified additional waivers if the residential development is located within a ½-mile or ¼-mile radius of a major transit stop, as defined. For a residential development within a county with a population equal to or less than 600,000, the bill would instead require that the incentive provide waivers from maximum controls on density, subject to certain limitations; maximum height limitations less than or equal to one story, or 15 feet, above the highest allowable height for mixed use or residential use; maximum floor area ratio requirements*

less than 0.6 times the number of stories in the proposed project; and minimum automobile parking requirements, as provided. The bill would require a local government to grant an equitable communities incentive unless it makes a specified finding regarding the effects of the incentive on any real property or historic district that is listed on a federal or state register of historical resources. The bill would authorize a local government to modify or expand the terms of an equitable communities incentive, provided that the equitable communities incentive is consistent with these provisions.

The bill would include findings that the changes proposed by these provisions address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. The bill would also delay implementation of these provisions in *potentially sensitive communities, as defined, until July 1, 2020, as provided. 2020. The bill would further delay implementation of these provisions in sensitive communities, determined as provided, until January 1, 2026, unless the city or county in which the area is located votes to make these provisions applicable after a specified petition and public hearing process. On and after January 1, 2026, the bill would apply these provisions to a sensitive community unless the city or county adopts a community plan for the area that meets certain requirements.*

~~By adding to the duties of local planning officials, this bill would impose a state-mandated local program.~~

The Housing Accountability Act prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project ~~for very low, low-, or moderate-income households or an emergency shelter~~ *that complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time the application for the project is deemed complete* unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That law provides that the receipt of a density bonus is not a valid basis on which to find a proposed housing development is inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision of that act.

This bill would additionally provide that the receipt of an equitable communities incentive is not a valid basis on which to find a proposed housing development is inconsistent, not in compliance, or not in

conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision of that act.

(3) *By adding to the duties of local planning officials, this bill would impose a state-mandated local program.*

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. State-mandated local program: yes.

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,
12 and require that high fees and exactions be paid by producers of
13 housing.

14 (C) Among the consequences of those actions are discrimination
15 against low-income and minority households, lack of housing to
16 support employment growth, imbalance in jobs and housing,
17 reduced mobility, urban sprawl, excessive commuting, and air
18 quality deterioration.

19 (D) Many local governments do not give adequate attention to
20 the economic, environmental, and social costs of decisions that
21 result in disapproval of housing development projects, reduction
22 in density of housing projects, and excessive standards for housing
23 development projects.

24 (2) In enacting the amendments made to this section by the act
25 adding this paragraph, the Legislature further finds and declares
26 the following:

1 (A) California has a housing supply and affordability crisis of
2 historic proportions. The consequences of failing to effectively
3 and aggressively confront this crisis are hurting millions of
4 Californians, robbing future generations of the chance to call
5 California home, stifling economic opportunities for workers and
6 businesses, worsening poverty and homelessness, and undermining
7 the state's environmental and climate objectives.

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

12 (C) The crisis has grown so acute in California that supply,
13 demand, and affordability fundamentals are characterized in the
14 negative: underserved demands, constrained supply, and protracted
15 unaffordability.

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

20 (E) California's overall homeownership rate is at its lowest level
21 since the 1940s. The state ranks 49th out of the 50 states in
22 homeownership rates as well as in the supply of housing per capita.
23 Only one-half of California's households are able to afford the
24 cost of housing in their local regions.

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

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

31 (H) When Californians have access to safe and affordable
32 housing, they have more money for food and health care; they are
33 less likely to become homeless and in need of
34 government-subsidized services; their children do better in school;
35 and businesses have an easier time recruiting and retaining
36 employees.

37 (I) An additional consequence of the state's cumulative housing
38 shortage is a significant increase in greenhouse gas emissions
39 caused by the displacement and redirection of populations to states
40 with greater housing opportunities, particularly working- and

1 middle-class households. California’s cumulative housing shortfall
2 therefore has not only national but international environmental
3 consequences.

4 (J) California’s housing picture has reached a crisis of historic
5 proportions despite the fact that, for decades, the Legislature has
6 enacted numerous statutes intended to significantly increase the
7 approval, development, and affordability of housing for all income
8 levels, including this section.

9 (K) The Legislature’s intent in enacting this section in 1982 and
10 in expanding its provisions since then was to significantly increase
11 the approval and construction of new housing for all economic
12 segments of California’s communities by meaningfully and
13 effectively curbing the capability of local governments to deny,
14 reduce the density for, or render infeasible housing development
15 projects and emergency shelters. That intent has not been fulfilled.

16 (L) It is the policy of the state that this section should be
17 interpreted and implemented in a manner to afford the fullest
18 possible weight to the interest of, and the approval and provision
19 of, housing.

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

24 (b) It is the policy of the state that a local government not reject
25 or make infeasible housing development projects, including
26 emergency shelters, that contribute to meeting the need determined
27 pursuant to this article without a thorough analysis of the economic,
28 social, and environmental effects of the action and without
29 complying with subdivision (d).

30 (c) The Legislature also recognizes that premature and
31 unnecessary development of agricultural lands for urban uses
32 continues to have adverse effects on the availability of those lands
33 for food and fiber production and on the economy of the state.
34 Furthermore, it is the policy of the state that development should
35 be guided away from prime agricultural lands; therefore, in
36 implementing this section, local jurisdictions should encourage,
37 to the maximum extent practicable, in filling existing urban areas.

38 (d) A local agency shall not disapprove a housing development
39 project, including farmworker housing as defined in subdivision
40 (h) of Section 50199.7 of the Health and Safety Code, for very

1 low, low-, or moderate-income households, or an emergency
2 shelter, or condition approval in a manner that renders the housing
3 development project infeasible for development for the use of very
4 low, low-, or moderate-income households, or an emergency
5 shelter, including through the use of design review standards,
6 unless it makes written findings, based upon a preponderance of
7 the evidence in the record, as to one of the following:

8 (1) The jurisdiction has adopted a housing element pursuant to
9 this article that has been revised in accordance with Section 65588,
10 is in substantial compliance with this article, and the jurisdiction
11 has met or exceeded its share of the regional housing need
12 allocation pursuant to Section 65584 for the planning period for
13 the income category proposed for the housing development project,
14 provided that any disapproval or conditional approval shall not be
15 based on any of the reasons prohibited by Section 65008. If the
16 housing development project includes a mix of income categories,
17 and the jurisdiction has not met or exceeded its share of the regional
18 housing need for one or more of those categories, then this
19 paragraph shall not be used to disapprove or conditionally approve
20 the housing development project. The share of the regional housing
21 need met by the jurisdiction shall be calculated consistently with
22 the forms and definitions that may be adopted by the Department
23 of Housing and Community Development pursuant to Section
24 65400. In the case of an emergency shelter, the jurisdiction shall
25 have met or exceeded the need for emergency shelter, as identified
26 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
27 disapproval or conditional approval pursuant to this paragraph
28 shall be in accordance with applicable law, rule, or standards.

29 (2) The housing development project or emergency shelter as
30 proposed would have a specific, adverse impact upon the public
31 health or safety, and there is no feasible method to satisfactorily
32 mitigate or avoid the ~~specific~~ *specific*, adverse impact without
33 rendering the development unaffordable to low- and
34 moderate-income households or rendering the development of the
35 emergency shelter financially infeasible. As used in this paragraph,
36 a “specific, adverse impact” means a significant, quantifiable,
37 direct, and unavoidable impact, based on objective, identified
38 written public health or safety standards, policies, or conditions
39 as they existed on the date the application was deemed complete.
40 Inconsistency with the zoning ordinance or general plan land use

1 designation shall not constitute a specific, adverse impact upon
2 the public health or safety.

3 (3) The denial of the housing development project or imposition
4 of conditions is required in order to comply with specific state or
5 federal law, and there is no feasible method to comply without
6 rendering the development unaffordable to low- and
7 moderate-income households or rendering the development of the
8 emergency shelter financially infeasible.

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

14 (5) The housing development project or emergency shelter is
15 inconsistent with both the jurisdiction’s zoning ordinance and
16 general plan land use designation as specified in any element of
17 the general plan as it existed on the date the application was
18 deemed complete, and the jurisdiction has adopted a revised
19 housing element in accordance with Section 65588 that is in
20 substantial compliance with this article. For purposes of this
21 section, a change to the zoning ordinance or general plan land use
22 designation subsequent to the date the application was deemed
23 complete shall not constitute a valid basis to disapprove or
24 condition approval of the housing development project or
25 emergency shelter.

26 (A) This paragraph cannot be utilized to disapprove or
27 conditionally approve a housing development project if the housing
28 development project is proposed on a site that is identified as
29 suitable or available for very low, low-, or moderate-income
30 households in the jurisdiction’s housing element, and consistent
31 with the density specified in the housing element, even though it
32 is inconsistent with both the jurisdiction’s zoning ordinance and
33 general plan land use designation.

34 (B) If the local agency has failed to identify in the inventory of
35 land in its housing element sites that can be developed for housing
36 within the planning period and are sufficient to provide for the
37 jurisdiction’s share of the regional housing need for all income
38 levels pursuant to Section 65584, then this paragraph shall not be
39 utilized to disapprove or conditionally approve a housing
40 development project proposed for a site designated in any element

1 of the general plan for residential uses or designated in any element
2 of the general plan for commercial uses if residential uses are
3 permitted or conditionally permitted within commercial
4 designations. In any action in court, the burden of proof shall be
5 on the local agency to show that its housing element does identify
6 adequate sites with appropriate zoning and development standards
7 and with services and facilities to accommodate the local agency's
8 share of the regional housing need for the very low, low-, and
9 moderate-income categories.

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

25 (e) Nothing in this section shall be construed to relieve the local
26 agency from complying with the congestion management program
27 required by Chapter 2.6 (commencing with Section 65088) of
28 Division 1 of Title 7 or the California Coastal Act of 1976
29 (Division 20 (commencing with Section 30000) of the Public
30 Resources Code). ~~Neither shall anything~~ *Nothing* in this section
31 *shall* be construed to relieve the local agency from making one or
32 more of the findings required pursuant to Section 21081 of the
33 Public Resources Code or otherwise complying with the California
34 Environmental Quality Act (Division 13 (commencing with Section
35 21000) of the Public Resources Code).

36 (f) (1) Nothing in this section shall be construed to prohibit a
37 local agency from requiring the housing development project to
38 comply with objective, quantifiable, written development standards,
39 conditions, and policies appropriate to, and consistent with, meeting
40 the jurisdiction's share of the regional housing need pursuant to

1 Section 65584. However, the development standards, conditions,
2 and policies shall be applied to facilitate and accommodate
3 development at the density permitted on the site and proposed by
4 the development.

5 (2) Nothing in this section shall be construed to prohibit a local
6 agency from requiring an emergency shelter project to comply
7 with objective, quantifiable, written development standards,
8 conditions, and policies that are consistent with paragraph (4) of
9 subdivision (a) of Section 65583 and appropriate to, and consistent
10 with, meeting the jurisdiction’s need for emergency shelter, as
11 identified pursuant to paragraph (7) of subdivision (a) of Section
12 65583. However, the development standards, conditions, and
13 policies shall be applied by the local agency to facilitate and
14 accommodate the development of the emergency shelter project.

15 (3) This section does not prohibit a local agency from imposing
16 fees and other exactions otherwise authorized by law that are
17 essential to provide necessary public services and facilities to the
18 housing development project or emergency shelter.

19 (4) For purposes of this section, a housing development project
20 or emergency shelter shall be deemed consistent, compliant, and
21 in conformity with an applicable plan, program, policy, ordinance,
22 standard, requirement, or other similar provision if there is
23 substantial evidence that would allow a reasonable person to
24 conclude that the housing development project or emergency
25 shelter is consistent, compliant, or in conformity.

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

29 (h) The following definitions apply for the purposes of this
30 section:

31 (1) “Feasible” means capable of being accomplished in a
32 successful manner within a reasonable period of time, taking into
33 account economic, environmental, social, and technological factors.

34 (2) “Housing development project” means a use consisting of
35 any of the following:

36 (A) Residential units only.

37 (B) Mixed-use developments consisting of residential and
38 nonresidential uses with at least two-thirds of the square footage
39 designated for residential use.

40 (C) Transitional housing or supportive housing.

1 (3) "Housing for very low, low-, or moderate-income
2 households" means that either (A) at least 20 percent of the total
3 units shall be sold or rented to lower income households, as defined
4 in Section 50079.5 of the Health and Safety Code, or (B) 100
5 percent of the units shall be sold or rented to persons and families
6 of moderate income as defined in Section 50093 of the Health and
7 Safety Code, or persons and families of middle income, as defined
8 in Section 65008 of this code. Housing units targeted for lower
9 income households shall be made available at a monthly housing
10 cost that does not exceed 30 percent of 60 percent of area median
11 income with adjustments for household size made in accordance
12 with the adjustment factors on which the lower income eligibility
13 limits are based. Housing units targeted for persons and families
14 of moderate income shall be made available at a monthly housing
15 cost that does not exceed 30 percent of 100 percent of area median
16 income with adjustments for household size made in accordance
17 with the adjustment factors on which the moderate-income
18 eligibility limits are based.

19 (4) "Area median income" means area median income as
20 periodically established by the Department of Housing and
21 Community Development pursuant to Section 50093 of the Health
22 and Safety Code. The developer shall provide sufficient legal
23 commitments to ensure continued availability of units for very low
24 or low-income households in accordance with the provisions of
25 this subdivision for 30 years.

26 (5) "Disapprove the housing development project" includes any
27 instance in which a local agency does either of the following:

28 (A) Votes on a proposed housing development project
29 application and the application is disapproved, including any
30 required land use approvals or entitlements necessary for the
31 issuance of a building permit.

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

36 (i) If any city, county, or city and county denies approval or
37 imposes conditions, including design changes, lower density, or
38 a reduction of the percentage of a lot that may be occupied by a
39 building or structure under the applicable planning and zoning in
40 force at the time the application is deemed complete pursuant to

1 Section 65943, that have a substantial adverse effect on the viability
2 or affordability of a housing development for very low, low-, or
3 moderate-income households, and the denial of the development
4 or the imposition of conditions on the development is the subject
5 of a court action which challenges the denial or the imposition of
6 conditions, then the burden of proof shall be on the local legislative
7 body to show that its decision is consistent with the findings as
8 described in subdivision (d) and that the findings are supported by
9 a preponderance of the evidence in the record. For purposes of this
10 section, “lower density” includes any conditions that have the same
11 effect or impact on the ability of the project to provide housing.

12 (j) (1) When a proposed housing development project complies
13 with applicable, objective general plan, zoning, and subdivision
14 standards and criteria, including design review standards, in effect
15 at the time that the housing development project’s application is
16 determined to be complete, but the local agency proposes to
17 disapprove the project or to impose a condition that the project be
18 developed at a lower density, the local agency shall base its
19 decision regarding the proposed housing development project upon
20 written findings supported by a preponderance of the evidence on
21 the record that both of the following conditions exist:

22 (A) The housing development project would have a specific,
23 adverse impact upon the public health or safety unless the project
24 is disapproved or approved upon the condition that the project be
25 developed at a lower density. As used in this paragraph, a “specific,
26 adverse impact” means a significant, quantifiable, direct, and
27 unavoidable impact, based on objective, identified written public
28 health or safety standards, policies, or conditions as they existed
29 on the date the application was deemed complete.

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

35 (2) (A) If the local agency considers a proposed housing
36 development project to be inconsistent, not in compliance, or not
37 in conformity with an applicable plan, program, policy, ordinance,
38 standard, requirement, or other similar provision as specified in
39 this subdivision, it shall provide the applicant with written
40 documentation identifying the provision or provisions, and an

1 explanation of the reason or reasons it considers the housing
2 development to be inconsistent, not in compliance, or not in
3 conformity as follows:

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

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

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

15 (3) For purposes of this section, the receipt of a density bonus
16 pursuant to Section 65915 or an equitable communities incentive
17 pursuant to Section 65918.51 shall not constitute a valid basis on
18 which to find a proposed housing development project is
19 inconsistent, not in compliance, or not in conformity with an
20 applicable plan, program, policy, ordinance, standard, requirement,
21 or other similar provision specified in this subdivision.

22 (4) For purposes of this section, a proposed housing development
23 project is not inconsistent with the applicable zoning standards
24 and criteria, and shall not require a rezoning, if the housing
25 development project is consistent with the objective general plan
26 standards and criteria but the zoning for the project site is
27 inconsistent with the general plan. If the local agency has complied
28 with paragraph (2), the local agency may require the proposed
29 housing development project to comply with the objective
30 standards and criteria of the zoning which is consistent with the
31 general plan, however, the standards and criteria shall be applied
32 to facilitate and accommodate development at the density allowed
33 on the site by the general plan and proposed by the proposed
34 housing development project.

35 (5) For purposes of this section, "lower density" includes any
36 conditions that have the same effect or impact on the ability of the
37 project to provide housing.

38 (k) (1) (A) The applicant, a person who would be eligible to
39 apply for residency in the development or emergency shelter, or
40 a housing organization may bring an action to enforce this section.

1 If, in any action brought to enforce this section, a court finds that
2 either (i) the local agency, in violation of subdivision (d),
3 disapproved a housing development project or conditioned its
4 approval in a manner rendering it infeasible for the development
5 of an emergency shelter, or housing for very low, low-, or
6 moderate-income households, including farmworker housing,
7 without making the findings required by this section or without
8 making findings supported by a preponderance of the evidence,
9 or (ii) the local agency, in violation of subdivision (j), disapproved
10 a housing development project complying with applicable,
11 objective general plan and zoning standards and criteria, or imposed
12 a condition that the project be developed at a lower density, without
13 making the findings required by this section or without making
14 findings supported by a preponderance of the evidence, the court
15 shall issue an order or judgment compelling compliance with this
16 section within 60 days, including, but not limited to, an order that
17 the local agency take action on the housing development project
18 or emergency shelter. The court may issue an order or judgment
19 directing the local agency to approve the housing development
20 project or emergency shelter if the court finds that the local agency
21 acted in bad faith when it disapproved or conditionally approved
22 the housing development or emergency shelter in violation of this
23 section. The court shall retain jurisdiction to ensure that its order
24 or judgment is carried out and shall award reasonable attorney’s
25 fees and costs of suit to the plaintiff or petitioner, except under
26 extraordinary circumstances in which the court finds that awarding
27 fees would not further the purposes of this section. For purposes
28 of this section, “lower density” includes conditions that have the
29 same effect or impact on the ability of the project to provide
30 housing.

31 (B) (i) Upon a determination that the local agency has failed
32 to comply with the order or judgment compelling compliance with
33 this section within 60 days issued pursuant to subparagraph (A),
34 the court shall impose fines on a local agency that has violated this
35 section and require the local agency to deposit any fine levied
36 pursuant to this subdivision into a local housing trust fund. The
37 local agency may elect to instead deposit the fine into the Building
38 Homes and Jobs *Trust* Fund, if Senate Bill 2 of the 2017–18
39 Regular Session is enacted, or otherwise in the Housing
40 Rehabilitation Loan Fund. The fine shall be in a minimum amount

1 of ten thousand dollars (\$10,000) per housing unit in the housing
2 development project on the date the application was deemed
3 complete pursuant to Section 65943. In determining the amount
4 of fine to impose, the court shall consider the local agency's
5 progress in attaining its target allocation of the regional housing
6 need pursuant to Section 65584 and any prior violations of this
7 section. Fines shall not be paid out of funds already dedicated to
8 affordable housing, including, but not limited to, Low and
9 Moderate Income Housing Asset Funds, funds dedicated to housing
10 for very low, low-, and moderate-income households, and federal
11 HOME Investment Partnerships Program and Community
12 Development Block Grant Program funds. The local agency shall
13 commit and expend the money in the local housing trust fund
14 within five years for the sole purpose of financing newly
15 constructed housing units affordable to extremely low, very low,
16 or low-income households. After five years, if the funds have not
17 been expended, the money shall revert to the state and be deposited
18 in the Building Homes and Jobs *Trust* Fund, if Senate Bill 2 of the
19 2017-18 Regular Session is enacted, or otherwise in the Housing
20 Rehabilitation Loan Fund, for the sole purpose of financing newly
21 constructed housing units affordable to extremely low, very low,
22 or low-income households.

23 (ii) If any money derived from a fine imposed pursuant to this
24 subparagraph is deposited in the Housing Rehabilitation Loan
25 Fund, then, notwithstanding Section 50661 of the Health and Safety
26 Code, that money shall be available only upon appropriation by
27 the Legislature.

28 (C) If the court determines that its order or judgment has not
29 been carried out within 60 days, the court may issue further orders
30 as provided by law to ensure that the purposes and policies of this
31 section are fulfilled, including, but not limited to, an order to vacate
32 the decision of the local agency and to approve the housing
33 development project, in which case the application for the housing
34 development project, as proposed by the applicant at the time the
35 local agency took the initial action determined to be in violation
36 of this section, along with any standard conditions determined by
37 the court to be generally imposed by the local agency on similar
38 projects, shall be deemed to be approved unless the applicant
39 consents to a different decision or action by the local agency.

1 (2) For purposes of this subdivision, “housing organization”
2 means a trade or industry group whose local members are primarily
3 engaged in the construction or management of housing units or a
4 nonprofit organization whose mission includes providing or
5 advocating for increased access to housing for low-income
6 households and have filed written or oral comments with the local
7 agency prior to action on the housing development project. A
8 housing organization may only file an action pursuant to this
9 section to challenge the disapproval of a housing development by
10 a local agency. A housing organization shall be entitled to
11 reasonable attorney’s fees and costs if it is the prevailing party in
12 an action to enforce this section.

13 (l) If the court finds that the local agency (1) acted in bad faith
14 when it disapproved or conditionally approved the housing
15 development or emergency shelter in violation of this section and
16 (2) failed to carry out the court’s order or judgment within 60 days
17 as described in subdivision (k), the court, in addition to any other
18 remedies provided by this section, shall multiply the fine
19 determined pursuant to subparagraph (B) of paragraph (1) of
20 subdivision (k) by a factor of five. For purposes of this section,
21 “bad faith” includes, but is not limited to, an action that is frivolous
22 or otherwise entirely without merit.

23 (m) Any action brought to enforce the provisions of this section
24 shall be brought pursuant to Section 1094.5 of the Code of Civil
25 Procedure, and the local agency shall prepare and certify the record
26 of proceedings in accordance with subdivision (c) of Section 1094.6
27 of the Code of Civil Procedure no later than 30 days after the
28 petition is served, provided that the cost of preparation of the record
29 shall be borne by the local agency, unless the petitioner elects to
30 prepare the record as provided in subdivision (n) of this section.
31 A petition to enforce the provisions of this section shall be filed
32 and served no later than 90 days from the later of (1) the effective
33 date of a decision of the local agency imposing conditions on,
34 disapproving, or any other final action on a housing development
35 project or (2) the expiration of the time periods specified in
36 subparagraph (B) of paragraph (5) of subdivision (h). Upon entry
37 of the trial court’s order, a party may, in order to obtain appellate
38 review of the order, file a petition within 20 days after service
39 upon it of a written notice of the entry of the order, or within such
40 further time not exceeding an additional 20 days as the trial court

1 may for good cause allow, or may appeal the judgment or order
2 of the trial court under Section 904.1 of the Code of Civil
3 Procedure. If the local agency appeals the judgment of the trial
4 court, the local agency shall post a bond, in an amount to be
5 determined by the court, to the benefit of the plaintiff if the plaintiff
6 is the project applicant.

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

19 *SEC. 2. Section 65913.5 is added to the Government Code, to*
20 *read:*

21 *65913.5. For purposes of this section and Section 65913.6, the*
22 *following definitions shall apply:*

23 (a) *"Development proponent" means the developer who submits*
24 *an application for streamlined approval pursuant to Section*
25 *65913.6.*

26 (b) *"Eligible parcel" means a parcel that meets all of the*
27 *following requirements:*

28 (1) *The parcel satisfies the requirements specified in paragraphs*
29 *(2) and (6) of subdivision (a) of Section 65913.4.*

30 (2) *The development of the project on the proposed parcel would*
31 *not require the demolition or alteration of any of the following*
32 *types of housing:*

33 (A) *Housing that is subject to a recorded covenant, ordinance,*
34 *or law that restricts rents to levels affordable to persons and*
35 *families of moderate, low, or very low income.*

36 (B) *Housing that is subject to any form of rent or price control*
37 *through a public entity's valid exercise of its police power.*

38 (C) *Housing that has been occupied by tenants within the past*
39 *10 years.*

1 (3) *The site was not previously used for housing that was*
2 *occupied by tenants that was demolished within 10 years before*
3 *the development proponent submits an application under this*
4 *section.*

5 (4) *The development of the project on the proposed parcel would*
6 *not require the demolition of a historic structure that was placed*
7 *on a national, state, or local historic register.*

8 (5) *The proposed parcel does not contain housing units that are*
9 *occupied by tenants, and units at the property are, or were,*
10 *subsequently offered for sale to the general public by the subdivider*
11 *or subsequent owner of the property.*

12 (c) *“Local agency” means a city, including a charter city, a*
13 *county, including a charter county, or a city and county, including*
14 *a charter city and county.*

15 (d) *“Neighborhood multifamily project” means a project to*
16 *construct a multifamily structure of up to four residential dwelling*
17 *units that meets all of the following requirements:*

18 (1) *The project meets one of the following conditions:*

19 (A) *The parcel or parcels on which the neighborhood*
20 *multifamily project would be located is vacant land, as defined in*
21 *subdivision (e).*

22 (B) *The project is a conversion of an existing structure that does*
23 *not require substantial exterior alteration. For the purposes of*
24 *this subparagraph, a project requires “substantial exterior*
25 *alteration” if the project would require either of the following:*

26 (i) *The demolition of 25 percent or more of the existing exterior*
27 *vertical walls, measured by linear feet.*

28 (ii) *Any building addition that would increase total interior*
29 *square footage by more than 15 percent.*

30 (2) (A) *The neighborhood multifamily project meets all objective*
31 *zoning standards and objective design review standards that do*
32 *not conflict with this section or Section 65913.6. If, on or after*
33 *July 1, 2019, a local agency adopts an ordinance that eliminates*
34 *residential zoning designations or decreases residential zoning*
35 *development capacity within an existing zoning district in which*
36 *the development is located than what was authorized on July 1,*
37 *2019, then that development shall be deemed to be consistent with*
38 *any applicable requirement of this section and Section 65913.6 if*
39 *it complies with zoning designations not in conflict with this section*
40 *and Section 65913.6 that were authorized as of July 1, 2019.*

1 (B) For purposes of this paragraph, “objective zoning
2 standards” and “objective design review standards” means
3 standards that involve no personal or subjective judgment by a
4 public official and are uniformly verifiable by reference to an
5 external and uniform benchmark or criterion available and
6 knowable by both the development proponent and the public official
7 before the development proponent submits an application pursuant
8 to this section. These standards include, but are not limited to,
9 height, setbacks, floor area ratio, and lot coverage.

10 (3) The project provides at least 0.5 parking spaces per unit.

11 (e) “Vacant land” means either of the following:

12 (1) A property that contains no existing structures.

13 (2) A property that contains at least one existing structure, but
14 the structure or structures have been unoccupied for at least five
15 years and are considered substandard as defined by Section
16 17920.3 of the Health and Safety Code.

17 SEC. 3. Section 65913.6 is added to the Government Code, to
18 read:

19 65913.6. (a) For purposes of this section, the definitions
20 provided in Section 65913.5 shall apply.

21 (b) Except as provided in subdivision (g), a development
22 proponent of a neighborhood multifamily project on an eligible
23 parcel may submit an application for a development to be subject
24 to a streamlined, ministerial approval process provided by this
25 section and not be subject to a conditional use permit if the
26 development meets the requirements of this section and Section
27 65913.5.

28 (c) (1) If a local agency determines that a development
29 submitted pursuant to this section is in conflict with any of the
30 requirements specified in this section or Section 65913.5, it shall
31 provide the development proponent written documentation of which
32 requirement or requirements the development conflicts with, and
33 an explanation for the reason or reasons the development conflicts
34 with that requirement or requirements, as follows:

35 (A) Within 60 days of submission of the development to the local
36 agency pursuant to this section if the development contains 150
37 or fewer housing units.

38 (B) Within 90 days of submission of the development to the local
39 agency pursuant to this section if the development contains more
40 than 150 housing units.

1 (2) If the local agency fails to provide the required
2 documentation pursuant to paragraph (1), the development shall
3 be deemed to satisfy the requirements of this section and Section
4 65913.5.

5 (d) Any design review or public oversight of the development
6 may be conducted by the local agency’s planning commission or
7 any equivalent board or commission responsible for review and
8 approval of development projects, or the city council or board of
9 supervisors, as appropriate. That design review or public oversight
10 shall be objective and be strictly focused on assessing compliance
11 with criteria required for streamlined projects, as well as any
12 reasonable objective design standards published and adopted by
13 ordinance or resolution by a local agency before submission of a
14 development application, and shall be broadly applicable to
15 development within the local agency. That design review or public
16 oversight shall be completed as follows and shall not in any way
17 inhibit, chill, or preclude the ministerial approval provided by this
18 section or its effect, as applicable:

19 (1) Within 90 days of submission of the development to the local
20 agency pursuant to this section if the development contains 150
21 or fewer housing units.

22 (2) Within 180 days of submission of the development to the
23 local agency pursuant to this section if the development contains
24 more than 150 housing units.

25 (e) Notwithstanding any other law, a local agency, whether or
26 not it has adopted an ordinance governing automobile parking
27 requirements in multifamily developments, shall not impose
28 automobile parking standards for a streamlined development that
29 was approved pursuant to this section beyond those provided in
30 the minimum requirements of Section 65913.5.

31 (f) (1) If a local agency approves a development pursuant to
32 this section, that approval shall automatically expire after three
33 years except that a project may receive a one-time, one-year
34 extension if the project proponent provides documentation that
35 there has been significant progress toward getting the development
36 construction ready. For purposes of this paragraph, “significant
37 progress” includes filing a building permit application.

38 (2) If a local agency approves a development pursuant to this
39 section, that approval shall remain valid for three years from the
40 date of the final action establishing that approval and shall remain

1 valid thereafter for a project so long as vertical construction of
2 the development has begun and is in progress. Additionally, the
3 development proponent may request, and the local agency shall
4 have discretion to grant, an additional one-year extension to the
5 original three-year period. The local agency's action and
6 discretion in determining whether to grant the foregoing extension
7 shall be limited to considerations and process set forth in this
8 section.

9 (g) This section shall not apply if the local agency finds that the
10 development project as proposed would have a specific, adverse
11 impact upon the public health or safety, including, but not limited
12 to, fire safety, and there is no feasible method to satisfactorily
13 mitigate or avoid the specific adverse impact without rendering
14 the development unaffordable to low- and moderate-income
15 households. As used in this paragraph, a "specific, adverse
16 impact" means a significant, quantifiable, direct, and unavoidable
17 impact, based on objective, identified written public health or
18 safety standards, policies, or conditions as they existed on the date
19 the application was deemed complete. Inconsistency with the
20 zoning ordinance or general plan land use designation shall not
21 constitute a specific, adverse impact upon the public health or
22 safety.

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

28 (i) This section shall not affect a development proponent's ability
29 to use any alternative streamlined by right permit processing
30 adopted by a local agency, including the provisions of subdivision
31 (i) of Section 65583.2 or 65913.4.

32 ~~SEC. 2:~~

33 ~~SEC. 4.~~ Chapter 4.35 (commencing with Section 65918.50) is
34 added to Division 1 of Title 7 of the Government Code, to read:

35

36 CHAPTER 4.35. EQUITABLE COMMUNITIES INCENTIVES

37

38 65918.50. For purposes of this chapter:

- 1 (a) “Development proponent” means an applicant who submits
2 an application for an equitable communities incentive pursuant to
3 this chapter.
- 4 (b) “Eligible applicant” means a development proponent who
5 receives an equitable communities incentive.
- 6 (c) “FAR” means floor area ratio.
- 7 (d) “High-quality bus corridor” means a corridor with fixed
8 route bus service that meets all of the following criteria:
- 9 (1) It has average service intervals *for each line and in each*
10 *direction* of no more than ~~15~~ 10 minutes during the three peak
11 hours between 6 a.m. to 10 a.m., inclusive, and the three peak
12 hours between 3 p.m. ~~and~~ to 7 p.m., inclusive, on Monday through
13 Friday.
- 14 (2) It has average service intervals *for each line and in each*
15 *direction* of no more than 20 minutes during the hours of 6 a.m.
16 to 10 p.m., inclusive, on Monday through Friday.
- 17 (3) It has average *service* intervals *for each line and in each*
18 *direction* of no more than 30 minutes during the hours of 8 a.m.
19 to 10 p.m., inclusive, on Saturday and Sunday.
- 20 (e) (1) “Jobs-rich area” means an area identified by the
21 Department of Housing and Community Development in
22 consultation with the Office of Planning and Research that is ~~both~~
23 high opportunity and jobs rich, based on whether, in a regional
24 analysis, the tract meets *both* of the following:
- 25 (A) The tract is ~~higher opportunity and~~ *high opportunity*,
26 *meaning* its characteristics are associated with positive educational
27 and economic outcomes for households of all income levels
28 residing in the tract.
- 29 (B) The tract meets either of the following criteria:
- 30 (i) New housing sited in the tract would enable residents to live
31 ~~in or near a jobs-rich area, as measured by employment density~~
32 ~~and job totals.~~ *near more jobs than is typical for tracts in the*
33 *region*.
- 34 (ii) New housing sited in the tract would enable shorter commute
35 distances for residents, ~~compared to existing commute levels.~~
36 *relative to existing commute patterns for people of all income*
37 *levels*.
- 38 (2) The Department of Housing and Community Development
39 shall, commencing on January 1, 2020, publish and update, every

1 five years thereafter, a map of the state showing the areas identified
2 by the department as “jobs-rich areas.”

3 (f) “Job-rich housing project” means a residential development
4 within an area identified as a jobs-rich area by the Department of
5 Housing and Community Development in consultation with the
6 Office of Planning and Research, based on indicators such as
7 proximity to jobs, high area median income relative to the relevant
8 region, and high-quality public schools, as an area of high
9 opportunity close to jobs. *area*. A residential development shall
10 be deemed to be within an area designated as job-rich *a jobs-rich*
11 *area* if both of the following apply:

12 (1) All parcels within the project have no more than 25 percent
13 of their area outside of the ~~job-rich~~ *jobs-rich* area.

14 (2) No more than 10 percent of residential units or 100 units,
15 whichever is less, of the development are outside of the ~~job-rich~~
16 *jobs-rich* area.

17 (g) “Local government” means a city, including a charter city,
18 a county, or a city and county.

19 (h) “Major transit stop” means a rail transit station or a ferry
20 terminal that is a major transit stop pursuant to subdivision (b) of
21 Section 21155 of the Public Resources Code.

22 (i) “Potentially sensitive community” means any of the
23 following:

24 (1) *An area that is designated as “high segregation and poverty”*
25 *or “low resource” on the 2019 Opportunity Maps developed by*
26 *the California Tax Credit Allocation Committee.*

27 (2) *A census tract that is in the top 25 percent scoring census*
28 *tracts from the internet-based CalEnviroScreen 3.0 tool.*

29 (3) *A qualified census tract identified by the United States*
30 *Department of Housing and Urban Development for 2019.*

31 (4) *It is the intent of the Legislature to consider all of the*
32 *following:*

33 (A) *Identifying additional communities as potentially sensitive*
34 *communities in inland areas, areas experiencing rapid change in*
35 *housing cost, and other areas based on objective measures of*
36 *community sensitivity.*

37 (B) *Application of the process for determining sensitive*
38 *communities established in subdivision (d) of Section 65918.55 to*
39 *the San Francisco Bay area.*

40 (i)

1 (j) “Residential development” means a project with at least
2 two-thirds of the square footage of the development designated
3 for residential use.

4 ~~(j)~~

5 (k) “Sensitive community” means either of the following:

6 ~~(1) Except as provided in paragraph (2), an area identified by~~
7 ~~the Department of Housing and Community Development, which~~
8 ~~identification shall be updated every five years, in consultation~~
9 ~~with local community-based organizations in each metropolitan~~
10 ~~planning region, as an area where both of the following apply:~~

11 ~~(A) Thirty percent or more of the census tract lives below the~~
12 ~~poverty line, provided that college students do not compose at least~~
13 ~~25 percent of the population.~~

14 ~~(B) The location quotient of residential racial segregation in the~~
15 ~~census tract is at least 1.25 as defined by the Department of~~
16 ~~Housing and Community Development.~~

17 ~~(1) Except as provided in paragraph (2), an area identified~~
18 ~~pursuant to subdivision (d) of Section 65918.55.~~

19 (2) In the Counties of Alameda, Contra Costa, Marin, Napa,
20 Santa Clara, San Francisco, San Mateo, Solano, and Sonoma, areas
21 designated by the Metropolitan Transportation Commission on
22 December 19, 2018, as the intersection of disadvantaged and
23 vulnerable communities as defined by the Metropolitan
24 Transportation Commission and the San Francisco Bay
25 Conservation and Development Commission, which identification
26 of a sensitive community shall be updated at least every five years
27 by the Department of Housing and Community Development.

28 ~~(k)~~

29 (l) “Tenant” means a person who does not own the property
30 where they reside, including residential situations that are any of
31 the following:

32 (1) Residential real property rented by the person under a
33 long-term lease.

34 (2) A single-room occupancy unit.

35 (3) An accessory dwelling unit that is not subject to, or does
36 not have a valid permit in accordance with, an ordinance adopted
37 by a local agency pursuant to Section 65852.22.

38 (4) A residential motel.

39 (5) A mobilehome park, as governed under the Mobilehome
40 Residency Law (Chapter 2.5 (commencing with Section 798) of

1 Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational
 2 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with
 3 Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code),
 4 the Mobilehome Parks Act (Part 2.1 (commencing with Section
 5 18200) of Division 13 of the Health and Safety Code), or the
 6 Special Occupancy Parks Act (Part 2.3 (commencing with Section
 7 18860) of Division 13 of the Health and Safety Code).

8 (6) Any other type of residential property that is not owned by
 9 the person or a member of the person's household, for which the
 10 person or a member of the person's household provides payments
 11 on a regular schedule in exchange for the right to occupy the
 12 residential property.

13 (†)

14 (m) "Transit-rich housing project" means a residential
 15 ~~development~~ *development*, the parcels of which are all within a
 16 one-half mile radius of a major transit stop or a one-quarter mile
 17 radius of a stop on a high-quality bus corridor. A project shall be
 18 deemed to be within the radius if both of the following apply:

19 (1) All parcels within the project have no more than 25 percent
 20 of their area outside of a one-half mile radius of a major transit
 21 stop or a one-quarter mile radius of a stop on a high-quality bus
 22 corridor.

23 (2) No more than 10 percent of the residential units or 100 units,
 24 whichever is less, of the project are outside of a one-half mile
 25 radius of a major transit stop or a one-quarter mile radius of a stop
 26 on a high-quality bus corridor.

27 65918.51. A local government shall, upon request of a
 28 development proponent, grant an equitable communities incentive,
 29 as specified in Section 65918.53, when the development proponent
 30 seeks and agrees to construct a residential development that
 31 satisfies the requirements specified in Section 65918.52.

32 65918.52. In order to be eligible for an equitable communities
 33 incentive pursuant to this chapter, a residential development shall
 34 meet all of the following criteria:

35 (a) The residential development is either a job-rich housing
 36 project or transit-rich housing project.

37 (b) The residential development is located on a site ~~that,~~ *at that*
 38 *meets the following requirements:*

39 (1) *At* the time of application, *the site* is zoned to allow housing
 40 as an underlying use in the zone, including, but not limited to, a

1 residential, mixed-use, or commercial zone, as defined and allowed
2 by the local government.

3 (2) *If the residential development is located within a coastal*
4 *zone, as defined in Division 20 (commencing with Section 30000)*
5 *of the Public Resources Code, the site satisfies the requirements*
6 *specified in paragraph (2) of subdivision (a) of Section 65913.4.*

7 (3) *The site is not located within any of the following:*

8 (A) *A coastal zone, as defined in Division 20 (commencing with*
9 *Section 30000) of the Public Resources Code, within a city with*
10 *a population of less than 50,000.*

11 (B) *A very high fire hazard severity zone, as determined by the*
12 *Department of Forestry and Fire Protection pursuant to Section*
13 *51178, or within a very high fire hazard severity zone as indicated*
14 *on maps adopted by the Department of Forestry and Fire*
15 *Protection pursuant to Section 4202 of the Public Resources Code.*
16 *A parcel is not ineligible within the meaning of this paragraph if*
17 *it is either of the following:*

18 (i) *A site excluded from the specified hazard zones by a local*
19 *agency, pursuant to subdivision (b) of Section 51179.*

20 (ii) *A site that has adopted fire hazard mitigation measures*
21 *pursuant to existing building standards or state fire mitigation*
22 *measures applicable to the development.*

23 (C) *A parcel that is a contributing parcel within a historic*
24 *district established by an ordinance of the local government that*
25 *was in effect as of December 31, 2010.*

26 (c) *If the residential development is located within a county that*
27 *has a population equal to or less than 600,000, the residential*
28 *development satisfies all of the following additional requirements:*

29 (1) *The site satisfies the requirements specified in paragraph*
30 *(2) of subdivision (a) of Section 65913.4.*

31 (2) *The site is not located within either of the following:*

32 (A) *An architecturally or historically significant historic district,*
33 *as defined in subdivision (h) of Section 5020.1 of the Public*
34 *Resources Code.*

35 (B) *A flood plain as determined by maps promulgated by the*
36 *Federal Emergency Management Agency, unless the development*
37 *has been issued a flood plain development permit pursuant to Part*
38 *59 (commencing with Section 59.1) and Part 60 (commencing with*
39 *Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code*
40 *of Federal Regulations.*

1 (3) *The residential development has a minimum density of 30*
2 *dwelling units per acre in jurisdictions considered metropolitan,*
3 *as defined in subdivision (f) of Section 65583.2, or a minimum*
4 *density of 20 dwelling units per acre in jurisdictions considered*
5 *suburban, as defined in subdivision (e) of Section 65583.2.*

6 (4) *The residential development is located within a one-half*
7 *mile radius of a major transit stop and within a city with a*
8 *population greater than 50,000.*

9 (e)

10 (d) (1) If the local government has adopted an inclusionary
11 housing ordinance requiring that the development include a certain
12 number of units affordable to households with incomes that do not
13 exceed the limits for ~~moderate-income~~, *moderate income*, lower
14 income, very low income, or extremely low income specified in
15 Sections 50079.5, 50093, 50105, and 50106 of the Health and
16 Safety Code, and that ordinance requires that a new development
17 include levels of affordable housing in excess of the requirements
18 specified in paragraph (2), the residential development complies
19 with that ordinance. The ordinance may provide alternative means
20 of compliance that may include, but are not limited to, in-lieu fees,
21 land dedication, offsite construction, or acquisition and
22 rehabilitation of existing units.

23 (2) (A) If the local government has not adopted an inclusionary
24 housing ordinance, as described in paragraph (1), the residential
25 development includes an affordable housing contribution for
26 households with incomes that do not exceed the limits for
27 extremely low income, very low income, and low income specified
28 in Sections 50093, 50105, and 50106 of the Health and Safety
29 Code.

30 (B) For purposes of this paragraph, the residential development
31 is subject to one of the ~~following~~: *following, as applicable*:

32 (i) If the project has 10 or fewer units, no affordability
33 contribution is imposed.

34 (ii) If the project has 11 to 20 residential units, the development
35 proponent may pay an in-lieu fee to the local government for
36 affordable housing, where feasible, pursuant to subparagraph (C).

37 (iii) If the project has more than 20 residential units, the
38 development proponent shall do either of the following:

1 (I) Make a comparable affordability contribution toward housing
2 offsite that is affordable to lower income households, pursuant to
3 subparagraph (C).

4 (II) Include units on the site of the project that are affordable
5 to extremely low income, ~~as defined in Section 50105 of the Health~~
6 ~~and Safety Code~~, very low income, or ~~low-income~~ *lower income*
7 households, as defined in ~~Section 50079.5~~ *Sections 50079.5, 50105,*
8 *and 50106* of the Health and Safety Code, as follows:
9

10 Project Size	Inclusionary Requirement
11 21- 200 units	15%
12	low
13	<i>lower</i>
14	income; or
15	8% very low income; or
16	6% extremely low income
17 201-350 units	17%
18	low
19	<i>lower</i>
20	income; or
21	10% very low income; or
22	8% extremely low income
23 351 or more units	25%
24	low
25	<i>lower</i>
26	income; or
27	15% very low income; or
28	11% extremely low income

29
30 (C) (i) The development proponent of a project that qualifies
31 pursuant to clause (ii) or subclause (I) of clause (iii) of
32 subparagraph (B) may make a comparable affordability
33 contribution toward housing offsite that is affordable to lower
34 income households, ~~as follows:~~ *pursuant to this subparagraph.*

35 ~~(i) The local government collecting the in-lieu fee payment shall~~
36 ~~make every effort to ensure that future affordable housing will be~~
37 ~~sited within one-half mile of the original project location within~~
38 ~~the boundaries of the local government by designating an existing~~
39 ~~housing opportunity site within a one-half mile radius of the project~~
40 ~~site for affordable housing. To the extent practicable, local housing~~

1 funding shall be prioritized at the first opportunity to build
2 affordable housing on that site.

3 (ii) ~~If no housing opportunity sites that satisfy clause (i) are~~
4 ~~available, the local government shall designate a site for affordable~~
5 ~~housing within the boundaries of the local government and make~~
6 ~~findings that the site for the affordable housing development~~
7 ~~affirmatively furthers fair housing, as defined in Section 8899.50.~~

8 (ii) *For the purposes of this subparagraph, “comparable*
9 *affordability contribution” means either a dedication of land or*
10 *direct in-lieu fee payment to a housing provider that proposes to*
11 *build a residential development in which 100 percent of the units,*
12 *excluding manager’s units, are sold or rented at affordable housing*
13 *cost, as defined in Section 50052.5 of the Health and Safety Code,*
14 *or affordable rent, as defined in Section 50053 of the Health and*
15 *Safety Code, subject to all of the following conditions:*

16 (I) *The site, and if applicable, the dedicated land, is located*
17 *within a one-half mile of the qualifying project.*

18 (II) *The site, and if applicable, the dedicated land, is eligible*
19 *for an equitable communities incentive.*

20 (III) *The residential development that receives a dedication of*
21 *land or in-lieu fee payment pursuant to this paragraph provides*
22 *the same number of affordable units at the same income category,*
23 *which would have been required onsite for the qualifying project*
24 *pursuant to subclause (II) of clause (iii) of subparagraph (B) of*
25 *paragraph (2).*

26 (IV) *The value of the dedicated land or in-lieu fee payment must*
27 *be at least equal to the capitalized value of the forgone revenue*
28 *that the development proponent would have incurred if the*
29 *qualifying project had provided the required number and type of*
30 *affordable units onsite.*

31 (V) *The comparable affordability contribution is subject to a*
32 *recorded covenant with the local jurisdiction. A copy of the*
33 *covenant shall be provided to the Department of Housing and*
34 *Community Development.*

35 (iii) *For the purposes of this subparagraph, “qualifying project”*
36 *means a project that receives an equitable communities incentive*
37 *by providing a comparable affordability contribution.*

38 (iv) *The qualifying development shall not be issued a certificate*
39 *of occupancy before the residential development receiving a*

1 *dedication of land or direct in-lieu fee payment pursuant to this*
2 *subparagraph receives a building permit.*

3 (D) Affordability of units pursuant to this paragraph shall be
4 restricted by deed for a period of 55 years for rental units or 45
5 years for units offered for sale.

6 ~~(d)~~

7 (e) The site does not contain, or has not contained, either of the
8 following:

9 (1) Housing occupied by tenants within the seven years
10 preceding the date of the application, including housing that has
11 been demolished or that tenants have vacated prior to the
12 application for a development permit.

13 (2) A parcel or parcels on which an owner of residential real
14 property has exercised their rights under Chapter 12.75
15 (commencing with Section 7060) of Division 7 of Title 1 to
16 withdraw accommodations from rent or lease within 15 years prior
17 to the date that the development proponent submits an application
18 pursuant to this chapter.

19 ~~(e)~~

20 (f) The residential development complies with all applicable
21 labor, construction employment, and wage standards otherwise
22 required by law and any other generally applicable requirement
23 regarding the approval of a development project, including, but
24 not limited to, the local government’s conditional use or other
25 discretionary permit approval process, the California
26 Environmental Quality Act (Division 13 (commencing with Section
27 21000) of the Public Resources Code), or a streamlined approval
28 process that includes labor protections.

29 ~~(f)~~

30 (g) The residential development complies with all other relevant
31 standards, requirements, and prohibitions imposed by the local
32 government regarding architectural design, restrictions on or
33 oversight of demolition, impact fees, and community benefits
34 agreements.

35 ~~(g)~~

36 (h) The equitable communities incentive shall not be used to
37 undermine the economic feasibility of delivering low-income
38 housing under the state density bonus program or a local
39 implementation of the state density bonus program, or any locally
40 adopted program that puts conditions on new development

1 applications on the basis of receiving a zone change or general
2 plan amendment in exchange for benefits such as increased
3 affordable housing, local hire, or payment of prevailing wages.

4 65918.53. (a) (1) Any transit-rich or ~~jobs-rich~~ *job-rich* housing
5 project *within a county that has a population greater than 600,000*
6 that meets the criteria specified in Section 65918.52 shall receive,
7 upon request, an equitable communities incentive as follows:

8 (1)

9 (A) A waiver from maximum controls on density.

10 (2)

11 (B) A waiver from minimum automobile parking requirements
12 greater than 0.5 automobile parking spots per unit.

13 (3) ~~Up to three incentives and concessions pursuant to~~
14 ~~subdivision (d) of Section 65915.~~

15 (b)

16 (2) An eligible applicant proposing a residential development
17 *within a county that has a population greater than 600,000* that
18 is located within a one-half mile radius, but outside a one-quarter
19 mile radius, of a major transit stop shall receive, in addition to the
20 incentives specified in ~~subdivision (a); paragraph (1)~~, waivers
21 from all of the following:

22 (1)

23 (A) Maximum height requirements less than 45 feet.

24 (2)

25 (B) Maximum FAR requirements less than 2.5.

26 (3)

27 (C) Notwithstanding subparagraph (B) of paragraph (1), any
28 ~~maximum~~ *minimum* automobile parking requirement.

29 (c)

30 (3) An eligible applicant proposing a residential development
31 *within a county that has a population greater than 600,000* that
32 is located within a one-quarter mile radius of a major transit stop
33 shall receive, in addition to the incentives specified in ~~subdivision~~
34 ~~(a); paragraph (1)~~, waivers from all of the following:

35 (1)

36 (A) Maximum height requirements less than 55 feet.

37 (2)

38 (B) Maximum FAR requirements less than 3.25.

39 (3)

1 (C) Notwithstanding paragraph ~~(1)~~ (2) of subdivision ~~(b)~~, (a),
2 any minimum automobile parking requirement.

3 (b) A residential development within a county that has a
4 population less than or equal to 600,000 that meets the criteria
5 specified in Section 65918.52 shall receive, upon request, an
6 equitable communities incentive as follows:

7 (1) A waiver from maximum controls on density, subject to
8 paragraph (3) of subdivision (c) of Section 65918.52.

9 (2) A waiver from maximum height limitations less than or equal
10 to one story, or 15 feet, above the highest allowable height for
11 mixed use or residential use. For purposes of this paragraph,
12 “highest allowable height” means the tallest height, including
13 heights that require conditional approval, allowable pursuant to
14 zoning and any specific or area plan that covers the parcel.

15 (3) Maximum FAR requirements less than 0.6 times the number
16 of stories proposed for the project.

17 (4) A waiver from minimum automobile parking requirements,
18 as follows:

19 (A) If the residential development is located within a one-quarter
20 mile radius of a rail transit station in a city with a population of
21 greater than 100,000, the residential development project shall
22 receive a waiver from any minimum automobile parking
23 requirement.

24 (B) If the residential development does not meet the criteria
25 specified in clause (i), the residential development project shall
26 receive a waiver from minimum automobile parking requirements
27 of less than 0.5 parking spaces per unit.

28 ~~(d)~~

29 (c) Notwithstanding any other law, ~~for purposes of calculating~~
30 ~~any additional incentive or concession~~ a project that qualifies for
31 an equitable communities incentive may also apply for a density
32 bonus, incentives or concessions, and parking ratios in accordance
33 with subdivision (b) of Section ~~65915~~, 65915. To calculate a
34 density bonus for a project that receives an equitable communities
35 incentive, the “otherwise maximum allowable gross residential
36 density” as described in subdivision (f) of Section 65915 shall be
37 equal to the proposed number of units ~~in~~ in, or the proposed square
38 footage of, the residential development after applying the equitable
39 communities incentive received pursuant to this ~~chapter~~ shall be
40 used as the base density for calculating the incentive or concession

1 ~~under that section.~~ *chapter. In no case may a city, county, or city*
 2 *and county apply any development standard that will have the*
 3 *effect of physically precluding the construction of a development*
 4 *meeting the criteria of this chapter and subdivision (b) of Section*
 5 *65915 at the unit count or square footage or with the concessions*
 6 *or incentives permitted by this chapter and as may be increased*
 7 *under Section 65915 in accordance with this subdivision, but no*
 8 *additional waivers or reductions of development standards, as*
 9 *described in subdivision (e) of Section 65915 shall be permitted.*

10 (d) *The local government shall grant an incentive requested by*
 11 *an eligible applicant pursuant to this chapter unless the local*
 12 *government makes a written finding, based on substantial evidence,*
 13 *that the incentive would have a specific, adverse impact on any*
 14 *real property or historic district that is listed on a federal or state*
 15 *register of historical resources and for which there is no feasible*
 16 *method to satisfactorily mitigate or avoid the specific, adverse*
 17 *impact without rendering the development unaffordable.*

18 (e) *An eligible applicant proposing a project that meets all of*
 19 *the requirements under Section 65913.4 may submit an application*
 20 *for streamlined, ministerial approval in accordance with that*
 21 *section.*

22 (f) *The local government may modify or expand the terms of*
 23 *an equitable communities incentive provided pursuant to this*
 24 *chapter, provided that the equitable communities incentive is*
 25 *consistent with, and meets the minimum standards specified in,*
 26 *this chapter.*

27 65918.54. *The Legislature finds and declares that this chapter*
 28 *addresses a matter of statewide concern rather than a municipal*
 29 *affair as that term is used in Section 5 of Article XI of the*
 30 *California Constitution. Therefore, this chapter applies to all cities,*
 31 *including charter cities.*

32 ~~65918.55. (a) Implementation of this chapter shall be delayed~~
 33 ~~in sensitive communities until July 1, 2020.~~

34 ~~(b) Between January 1, 2020, and _____, a local government, in~~
 35 ~~lieu of the requirements of this chapter, may opt for a~~
 36 ~~community-led planning process in sensitive communities aimed~~
 37 ~~toward increasing residential density and multifamily housing~~
 38 ~~choices near transit stops, as follows:~~

39 ~~(1) Sensitive communities that pursue a community-led planning~~
 40 ~~process at the neighborhood level shall, on or before January 1,~~

1 ~~2025, produce a community plan that may include zoning and any~~
2 ~~other policies that encourage multifamily housing development at~~
3 ~~a range of income levels to meet unmet needs, protect vulnerable~~
4 ~~residents from displacement, and address other locally identified~~
5 ~~priorities.~~

6 ~~(2) Community plans shall, at a minimum, be consistent with~~
7 ~~the overall residential development capacity and the minimum~~
8 ~~affordability standards set forth in this chapter within the~~
9 ~~boundaries of the community plan.~~

10 ~~(3) The provisions of this chapter shall apply on January 1,~~
11 ~~2025, to sensitive communities that have not adopted community~~
12 ~~plans that meet the minimum standards described in paragraph~~
13 ~~(2), whether those plans were adopted prior to or after enactment~~
14 ~~of this chapter.~~

15 *65918.55. (a) On or before July 1, 2020, Sections 65918.51*
16 *to 65918.54, inclusive, shall not apply to a potentially sensitive*
17 *community. After July 1, 2020, Sections 65918.51 to 65918.54,*
18 *inclusive, shall apply in any potentially sensitive community that*
19 *is not identified as a sensitive community pursuant to subdivision*
20 *(b).*

21 *(b) On or before July 1, 2020, sensitive communities in each*
22 *county shall be identified and mapped in accordance with the*
23 *following:*

24 *(1) The council of governments, or the county board of*
25 *supervisors in a county without a council of governments, shall*
26 *establish a working group comprised of residents of potentially*
27 *sensitive communities within the county, ensuring equitable*
28 *representation of vulnerable populations, including, but not limited*
29 *to, renters, low-income people, and members of classes protected*
30 *under the California Fair Employment and Housing Act (Part 2.8*
31 *(commencing with Section 12900) of Division 3 of Title 2).*

32 *(2) The working group shall develop a map of sensitive*
33 *communities within the county, which shall include some or all of*
34 *the areas identified as potentially sensitive communities pursuant*
35 *to subdivision (i) of Section 65918.50. The working group shall*
36 *prioritize the input of residents from each potentially sensitive*
37 *community in making a determination about that community.*

38 *(3) Each board of supervisors or council of governments shall*
39 *adopt the sensitive communities map for the county, along with*
40 *an explanation of the composition and function of the working*

1 *group and the community process and methodology used to create*
2 *the maps, at a public hearing held on or before July 1, 2020.*

3 *(c) Sections 65918.51 to 65918.54, inclusive, shall apply in a*
4 *sensitive community on and after January 1, 2026, unless the city*
5 *or county in which the sensitive community is located has adopted*
6 *a community plan for an area that includes the sensitive community*
7 *that is aimed toward increasing residential density and multifamily*
8 *housing choices near transit stops and meets all of the following:*

9 *(1) The community plan is not in conflict with the goals of this*
10 *chapter.*

11 *(2) The community plan permits increased density and*
12 *multifamily development near transit, with all upzoning linked to*
13 *onsite affordable housing requirements that meet or exceed the*
14 *affordable housing requirements in Sections 65918.51 to 65918.54,*
15 *inclusive. Community plans shall, at a minimum, be consistent*
16 *with the overall residential development capacity and the minimum*
17 *affordability standards set forth in Sections 65918.51 to 65918.54,*
18 *inclusive, within the boundaries of the community plan.*

19 *(3) The community plan includes provisions to protect*
20 *vulnerable residents from displacement.*

21 *(4) The community plan promotes economic justice for workers*
22 *and residents.*

23 *(5) The community plan was developed in partnership with at*
24 *least one of the following:*

25 *(A) A nonprofit or community organization that focuses on*
26 *organizing low-income residents in the sensitive community.*

27 *(B) A nonprofit or community organization that focuses on*
28 *organizing low-income residents in the jurisdiction.*

29 *(C) If there are no nonprofit or community organizations*
30 *working within the sensitive community or the jurisdiction, a*
31 *nonprofit with demonstrated experience conducting outreach to*
32 *low-income communities.*

33 *(6) Residents of the sensitive community are engaged throughout*
34 *the planning process, including through at least three community*
35 *meetings that are held at times and locations accessible to*
36 *low-income residents.*

37 *(7) All public documents and meetings related to the planning*
38 *process are translated into all languages spoken by at least 25*
39 *percent of residents of the sensitive community.*

40 *(8) The community plan is adopted before July 1, 2025.*

1 (d) Each city and each county shall make reasonable efforts to
2 develop a community plan for any sensitive communities within
3 its jurisdiction. A community plan may address other locally
4 identified priorities, provided they are not in conflict with the intent
5 of this chapter or any other law. A city or county may designate
6 a community plan adopted before July 1, 2020, as the plan that
7 meets the requirements of this paragraph, provided that the plan
8 meets all criteria in this section.

9 (e) Notwithstanding any other provision of this section, Sections
10 65918.51 to 65918.54, inclusive, shall apply in any sensitive
11 community if all of the following apply:

12 (1) At least 20 percent of adult residents of the sensitive
13 community sign a petition attesting that the community desires to
14 make the provisions of Sections 65918.51 to 65918.54, inclusive,
15 applicable in the area. The petition shall describe in plain language
16 the planning standards set forth in Sections 65918.51 to 65918.54,
17 inclusive; be translated into all languages spoken by at least 25
18 percent of residents in the affected area; and collect contact
19 information from signatories to the petition, including first, middle,
20 and last name, mailing address, and phone number and email
21 address if available.

22 (2) The local government has verified the petition to ensure
23 compliance with paragraph (1).

24 (3) Following signature verification, the local government
25 provides public notice and opportunity to comment to residents of
26 the affected area and holds a minimum of three public hearings
27 in the affected area at a time and in a place and manner accessible
28 to low-income residents and other vulnerable populations.

29 (4) The governing body for the city or county in which the
30 sensitive community is located determines, by majority vote, to
31 apply this chapter in the affected area.

32 (f) It is the intent of the Legislature to consider all of the
33 following:

34 (1) Tasking local government entities with greater community
35 connection with convening and administering the process for
36 identifying sensitive communities.

37 (2) Requiring review by the Department of Housing and
38 Community Development of the designation of sensitive
39 communities.

1 ~~SEC. 3.~~

2 *SEC. 5.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 a local agency or school district has the authority to levy service
5 charges, fees, or assessments sufficient to pay for the program or
6 level of service mandated by this act, within the meaning of Section
7 17556 of the Government Code.

O