



## **SB 50 (Wiener) Analysis and Recommendation**

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**TITLE:** SB 50 – Planning and zoning: housing development: incentives

**AUTHOR(S):** Senate: Wiener (D-San Francisco), Caballero (D-Salinas), Hueso (D-San Diego), Moorlach (R-Costa Mesa), Skinner (D-Berkeley), Stone (D-Scotts Valley)

Assembly: Burke (D-Marina Del Rey), Chu (D-San Jose), (Diep (R- Huntington Beach), Fong (R-Bakersfield), Kalra (D-San Jose), Kiley (R-Rocklin), Low (D-Campbell), McCarty (D-Sacramento), Rivas (D-Hollister), Ting (D-San Francisco), Wicks (D-Oakland)

**SPONSOR(S):** California YIMBY, Non-Profit Housing Association of Northern California

### **BACKGROUND:**

Senator Wiener, Chair of the Senate Housing Committee, and Senator McGuire, Chair of the Senate Governance and Finance Committee, have been working for the past several months to reconcile provisions within their respective bills, SB 50 and SB 4, that each encourage more housing near transit throughout California. Both bills passed out of the Senate Housing Committee on April 2 and were heard in the Senate Governance and Finance Committee on April 24. In the Governance and Finance Committee, it was announced that SB 50 would be significantly amended to incorporate priorities within SB 4. SB 50 passed out of the Governance and Finance Committee (6-1) and will be the legislative vehicle for this compromise moving forward. SB 4 will be held in committee.

### **PURPOSE:**

SB 50 would authorize developers to claim a new “equitable communities incentive” for a project in either a “transit-rich” or “job-rich” area as defined and reduce local zoning standards when a development meets specified requirements. The bill was amended on May 1 and the main tenants now include:

### **Project Requirements and Approvals**

- Transit-rich projects must be located within a one-half mile of a major transit stop (rail or ferry) or one-quarter mile of a stop on a high-quality bus corridor
- Job-rich projects must be located within an area designated by the Department of Housing and Community Development that is high opportunity and jobs rich (i.e. close proximity to jobs, high area median income relative to the region, and high-quality public schools)
- A residential development must be located on a site that, at the time of application, is zoned to allow housing as an underlying use
- Projects must comply with all generally applicable approval requirements - local conditional use or other discretionary approvals, CEQA, or a streamlined approval process that includes labor protections
- Projects must comply with all other relevant standards, requirements, and prohibitions imposed by the local government regarding architectural design, restrictions on or oversight of demolition, impact fees, and community benefits agreements

**Zoning Provisions in Counties over 600,000 Population**

- Projects within a one-half mile of a major transit stop – heights no less than 45 feet; minimum Floor Area Ratio (FAR) limit of 2.5; no minimum parking requirement; density limits waived
- Projects within a one-quarter mile of major transit stop – heights no less than 55 feet; minimum FAR limit of 3.25; no minimum parking requirement; density limits waived
- Projects in jobs rich area or within a one-quarter mile of a bus stop (with 10 minute headways during peak time) – no changes to height limit or FAR; minimum parking waived up to 0.5 space/unit; density limits waived
- Parcels in legislatively-adopted historic districts in existence as of 2010 are exempt

**Zoning Provisions in Counties with 600,000 Population or Less**

- Waiver from density limits (with minimum of 30 units/acre in urban jurisdictions and 20 units/ acre in suburban jurisdictions); height limits of zoning plus one story; and FAR of 0.6 times the number of stories for projects within a one-half mile of rail/ferry in cities over 50,000
- No minimum parking within one-quarter mile of rail in cities over 100,000; 0.5 spaces/unit minimum everywhere else
- All the above would pertain only to infill parcels, as defined

**Inclusionary Housing Requirements**

- If a project has more than 20 residential units, the developer shall include the following:

Project Size	Inclusionary Requirement
21– 200 units	15% lower income; or 8% very low income; or 6% extremely low income
201–350 units	17% lower income; or 10% very low income; or 8% extremely low income
351 or more units	25% lower income; or 15% very low income; or 11% extremely low income

- Or a developer can make a dedication of land or direct in-lieu fee payment to a housing provider constructing 100% affordable housing within half-mile of original project site
- A certificate of occupancy on market rate development shall not be issued without a building permit issued for required inclusionary housing project
- If a local government has adopted inclusionary housing requirements that exceed the above levels, SB 50 projects must comply with local ordinance

**Anti-Displacement Provisions**

- Proposed project site cannot contain housing occupied by tenants within the past seven years or where a unit has been taken off the market via the Ellis Act within the past 15 years

**Potentially Sensitive Communities**

- Include, at a minimum, areas designated as “high segregation and poverty” or “low-resource “by the California Tax Credit Allocation Committee; a census tract in the top 25% of Cal EnviroScreen scores; a qualified census tract identified by the U.S. Department of Housing and Urban Development for 2019.
- Within the Bay Area, areas identified using the Metropolitan Transportation Commission’s map of disadvantaged and vulnerable communities

- For delayed implementation, jurisdictions must opt-in, before July 1, 2020, to a community planning process based on specified requirements
- The council of government (COG) or the county board of supervisors in counties without a COG will be responsible for running process to identify sensitive communities with minimum requirements for outreach to disadvantaged populations
- A community plan must be adopted before July 1, 2025

#### **Other Applicable Amendments (Statewide)**

- Fourplexes allowed by right (regardless of jurisdiction population) in residential areas on vacant land. No demolition of existing structures or housing that has been occupied within the past 10 years, but allows for conversions; must comply with all other local regulations (setbacks, lot coverage, height, etc.) and include SB 35 provisions on eligible parcels
- Coastal zone cities with populations less than 50,000 are exempt
- High fire hazard severity zones are exempt
- Bill applies to infill parcels in coastal zone regardless of jurisdiction size

#### **BART IMPACT:**

SB 50 is complimentary to many aspects of BART's Transit Oriented Development (TOD) Policy because it incentivizes the building of housing near transit. BART stations by nature are major transit stops and could see an increase in the number of housing units built within a half-mile radius. Denser housing near BART could increase ridership as data shows that residents within a half-mile of BART are twice as likely to walk, bike or take transit for their commute trip, and own fewer cars. In addition, housing next to high-quality transit offers a sustainable way to ensure ongoing ridership, which helps reduce freeway congestion and greenhouse gas emissions related to vehicle trips. All counties within the BART service area would be subject to zoning provisions for counties with populations greater than 600,000. The counties of Marin, Napa, Solano, and Sonoma have populations of less than 600,000.

In relation to AB 2923 (Chiu and Grayson) passed last session, SB 50 has the potential to impact future residential developments pursued on BART-owned land. SB 50 does not interfere with BART's process for setting TOD standards for stations, but in some cases may provide additional incentives and flexibility to a developer regarding zoning.

#### **KNOWN SUPPORT/OPPOSITION:**

Support: 3,025 Individuals; 6beds, Inc.; AARP; Bay Area Council; Bridge Housing Corporation; Building Industry Association of The Bay Area; Burbank Housing Development Corporation; Calasian Chamber of Commerce; California Apartment Association; California Chamber of Commerce; California Community Builders; California National Party; California Yimby; Dana Point Chamber Of Commerce; Emeryville; City of; Facebook, Inc.; Fieldstead and Company, Inc.; Fossil Free California; Greater Washington; Hamilton Families; Local Government Commission; Los Angeles Area Chamber of Commerce; Ms.; Murrieta Chamber of Commerce; Natural Resources Defense Council; North Orange County Chamber of Commerce; Oakland Metropolitan Chamber of Commerce; Office of The Mayor, San Francisco; Orange County Business Council; Oxnard Chamber of Commerce; Related California; San Francisco Bay Area Rapid Transit District; Santa Cruz County Chamber of Commerce; Santa Maria Valley Chamber of Commerce; Silicon Valley At Home (Sv@Home); Silicon Valley Leadership Group; South Bay Jewish Federation; South Bay Yimby; Spur; State Council on Developmental Disabilities; Stripe; Technet-Technology Network; The Silicon Valley Organization; Tmg Partners; Valley Industry And Commerce Association; Yimby Action

Opposition: 1,850 Individuals; Aids Healthcare Foundation; Alliance of Californians for Community Empowerment (Acce) Action; American Planning Association, California Chapter; Asian Pacific Environmental Network; Barbary Coast Neighborhood Association; Bay Area Transportation Working Group; Berkeley Tenants Union; Brentwood Community Council - West Los Angeles; Causa Justa: Just Cause; Central Valley Empowerment Alliance; Century Glen Hoa; City of Brentwood; City of Chino Hills; City of Cupertino; City of Downey; City of Glendale; City of Lafayette; City of Lakewood; City of La Mirada; City of Palo Alto; City of Rancho Cucamonga; City of Rancho Palos Verdes; City of Pinole; City of Redondo Beach; City of San Francisco; City of San Mateo; City of Santa Clarita; City of Solana Beach; City of Sunnyvale; City of Vista; Coalition for San Francisco Neighborhoods; Preserve LA; Concerned Citizens of Los Feliz; Cow Hollow Association; Dolores Heights Improvement Club; Dolores Street Community Services; East Mission Improvement Association; East Yard Communities for Environmental Justice; City of Glendora; Grayburn Avenue Block Club; Homeowners of Encino; Housing for All Burlingame; Housing Rights Committee of San Francisco; Jobs with Justice San Francisco; Jordan Park Improvement Association; Legal Services for Prisoners with Children; League of California Cities; Los Angeles Tenants Union - Hollywood Local Case Worker; Los Angeles Tenants Union -- Networking Team; Miraloma Park Improvement Club; Mission Economic Development Agency; New Livable California DbA Livable California; Noe Neighborhood Council; Northeast Business Economic Development DbA Northeast Business Association; City of Pasadena; Planning Association for the Richmond; Poder; Redstone Labor Temple Association; Regional-Video; Sacred Heart Community Service; San Francisco Senior And Disability Action; San Francisco Rising Alliance; San Francisco Tenants Union; Save Capp Street; Senior and Disability Action; SF Ocean Edge; Sherman Oaks Homeowners Association; South Bay Cities Council Of Governments; South Brentwood Residents Association; South of Market Community Action Network; Stand Up For San Francisco; Sunset-Parkside Education And Action Committee (Speak); Sutro Avenue Block Club/Leimert Park; Telegraph Hill Dwellers; Tenant Sanctuary; Tenants Together; The San Francisco Marina Community Association; Toluca Lake Homeowners Association; United to Save the Mission; Urban Habitat; West Mar Vista Residents Association; Yah! (Yes to Affordable Housing)

### **OTHER COMMENTS:**

In 2017, BART took a “support if amended” position on Senator Wiener’s SB 827. The bill would have exempted a transit-rich housing project within a half-mile of a major transit stop or quarter-mile of a stop on a “high quality transit corridor” from various local requirements including maximum controls on density and minimum parking. The bill died in the Senate Transportation and Housing Committee.

### **STATUS:**

Introduced on 12/13/18; referred to Senate Committee on Housing and Senate Committee on Governance and Finance on 1/24/19; amended 3/11/19; passed out of the Senate Committee on Housing (9-1) on 4/2/19; passed out of the Senate Committee on Governance and Finance (6-1) as amended on 4/24/19; amended on 5/1/19.

### **RECOMMENDATION:**

Support

Watch

Oppose

Analysis completed on 5/1/19.

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

**SENATE BILL**

**No. 50**

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**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

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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	<del>low</del>
13	<i>lower</i>
14	income; or
15	8% very low income; or
16	6% extremely low income
17 201–350 units	17%
18	<del>low</del>
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	<del>low</del>
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 ~~(e)~~

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.

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