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Carolyn M. Coleman

January 14, 2020

The Honorable Anthony Portantino  
Chair, Senate Committee on Appropriations  
State Capitol Building, Room 2206  
Sacramento, CA 95814

**RE: SB 50 (Wiener) Planning and Zoning. Housing Development Incentives  
Oppose Unless Amended (as amended 01/06/2020)**

Dear Senator Portantino:

The League of California Cities must continue to oppose SB 50 unless the measure is further amended to address our key concerns. The amendments taken on January 6, 2020 do not take into account our primary objections to SB 50. However, the League of California Cities is pleased to see that recent amendments attempt to create an alternative planning process for jurisdictions to develop a “local flexibility plan” that, if approved by the California Department of Housing and Community Development (HCD), would exempt cities from nearly all aspects of SB 50 with the exception of requiring fourplexes in single-family zones. Unfortunately we can’t evaluate whether the “local flexibility plan” is a viable alternative because the amendments do not clearly identify the elements of the plan.

**Specific Concerns with the January 6, 2020 Amendments**

It appears that the intent of the amendments are to provide local governments with an opportunity to develop their own plan to meet the goals and objectives of SB 50. Although the goal of increased density around transit is clear; the goal of the bill regarding a jobs-rich housing project is not. The amendments, as drafted, raise the following concerns:

- **Without clearly identified criteria, we are unable to evaluate** whether the “local flexibility plan” is actually viable alternative planning option.
- **Office of Planning and Research (OPR) and HCD are tasked with developing “rules, regulations, or guidelines”** for the submission and approval of a “local flexibility plan” without sufficient direction from the Legislature. This rulemaking process is exempt from the Administrative Procedures Act, thus allowing OPR and HCD to craft rules, regulations, or guidelines with little to no public input or oversight.
- **Further legislative direction is required, the elements of the plan are not clear:**
  - “Achieve a standard of transportation efficiency as great or greater than if the local government were to grant equitable communities incentives.” SB 50 does not contain any language regarding “transportation efficiency.” Therefore, it is not possible to determine how HCD, OPR or a local government will determine how to meet this standard or how a “local flexibility plan” is expected to comply with this standard.

- “Increase overall feasible housing capacity for households of lower, moderate, and above moderate incomes, considering economic factors such as cost of likely construction types, affordable housing requirements, and the impact of local development fees.” The override provisions of SB 50 do not contain any language regarding “feasible housing capacity for households of lower, moderate, and above moderate incomes,” nor does it address “economic factors such as cost of likely construction types, affordable housing requirements, and the impact of local development fees.” Therefore, it is not possible to determine how HCD, OPR or a local government will determine how to meet this standard or how a “local flexibility plan” is expected to comply with this standard.
- SB 50’s “community plan” for sensitive communities provides a much clearer alternative and should be considered as a possible alternative planning process for all jurisdictions.

#### **Remaining Objections to SB 50**

If a city elects not to develop a “local flexibility plan” or if HCD does not approve a submitted “local flexibility plan” by January 1, 2023, a city is required to give a developer an “equitable communities incentive”, which overrides locally developed and adopted height limitations, housing densities, and parking requirements. Many statewide standards, enacted by the Legislature, are included in the State’s Planning law. Standards should be established by the Legislature, not by individual developers.

Developers of certain housing projects should not be allowed to override locally developed (and HCD-approved) housing elements which identify adequate sites with sufficient density to accommodate a city’s share of the regional housing need. Specifically, the League has significant concerns with the following:

- **Wasting time and money.** SB 50 would greatly undermine locally adopted General Plans, Housing Elements (which are certified by the HCD, and Sustainable Community Strategies (SCS). By allowing developers to override state approved housing plans, SB 50 seriously calls to question the need for cities to develop these community based plans and the justification for spending millions of state and local funds on the planning process. HCD spends a significant amount of money and staff time to review and certify housing elements for 482 cities. In 2019 alone, HCD allocated nearly \$130 million to local governments to update their housing plans and approval processes. The 2019/2020 State Budget allocated an additional \$250 million on local plans. Why would the Legislature pass a bill that encourages developers to defy these plans and essentially waste millions of taxpayer dollars?
- **Gives housing developers and transit agencies, who are unaccountable to local voters, the power to determine** housing densities, heights up to 55 feet, parking requirements, and design review standards for “transit-rich housing projects” within one-half mile of a major transit stop. For those “transit-rich housing projects” within one-quarter mile radius of a stop on a high-quality bus corridor, developers would be able to determine housing density, and parking requirements above .5 spots per unit.

- **What is the full scope of SB 50?** As presently drafted, it is very difficult to determine what constitutes a “jobs-rich area” since the HCD and OPR are largely tasked with making that determination. It is hard to understand why the Legislature would want the Executive Branch to define essential terms that have broad implications for how SB 50 would be implemented. Additionally, by not defining “jobs-rich area” in statute, there is no way of knowing if SB 50 will actually accomplish its stated goal.
- **Greater density but no public transit?** SB 50 would require cities to allow greater density in communities that are high opportunity and jobs rich, but may lack access to public transit. This seems at odds with many state policies that encourage and incentivize more dense housing near transit so that individuals may become less dependent on automobiles. It’s only been a few years since the Legislature determined that the impact on the transportation environment from a housing project should be measured in vehicle miles traveled.
- **Two-tiered process that exempts** cities with a population of less than 50,000 that are in a county with a population of less than 600,000, from the most extreme provisions of the measure. It is unclear why these cities should be treated differently than a similar size city in a county with a population over 600,000. Instead of arbitrarily establishing a population metric, it would be much more appropriate to consider the full range of community characteristics when determining which areas of the state SB 50 should apply.

For these reasons, the League of California Cities must continue to oppose SB 50 unless it is further amended to address the above concerns. We continue to be committed to finding solutions to the housing supply and affordability crisis gripping many regions of the state and look forward to working with you and all other stakeholders in the coming Legislative Session. If you have any questions, please feel free to contact me at (916) 658-8264.

Sincerely,



Jason Rhine  
Assistant Legislative Director

cc. Senator Scott Wiener  
Members, Senate Committee on Appropriations  
Mark McKenzie, Chief Consultant, Senate Committee on Appropriations  
Ryan Eisberg, Consultant, Senate Republican Caucus

# REUBEN, JUNIUS & ROSE, LLP

## SB 50 Revamp: The More HOMES Act Amended

JANUARY 9, 2020 | JUSTIN A. ZUCKER



SB 50, [The More HOMES Act](#) introduced by San Francisco State Senator Scott Wiener in December 2018 was reintroduced with amendments earlier this week. The reintroduction comes after SB 50 was held by the Appropriations Committee last spring by State Senator Anthony Portantino.

SB 50, which [we have previously reported on](#), seeks to address California's housing crisis by requiring cities to allow increased density for housing projects near "high-quality" transit stops or "jobs-rich areas." In addition, SB 50 would streamline permitting for multifamily housing developments up to 4 residential dwelling units that are code complaint per the zoning requirements in place as they

existed on July 1, 2019. For such projects, the bill would establish a streamlined ministerial approval process, thereby exempting them from the California Environmental Quality Act (“CEQA”) approval process. And SB 50 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. Not surprisingly, opponents of SB 50 continue to express concerns regarding its incentive program taking away local control and the likely displacement of locals through gentrification.

There is an estimated shortfall of 3.5 million units of housing in California that is the result of a decade of low housing production. SB 50 enables the production of more housing and requires larger projects to set aside 15% to 25% of homes to low-income residents. SB 50 aims to increase density in residential areas by making it legal to construct small apartments complexes, such as triplexes and fourplexes, in single-family neighborhoods and up to six-story buildings adjacent to “high-quality” transit.

In order to address the local push back, the following amendments have been added:

- Gives local governments flexibility – local flexibility plans – for how they implement SB 50’s requirements;
- A priority preference program for local low-income residents; and
- Continues to provide a two-year implementation delay for “potentially sensitive communities” and five-year implementation delay for “sensitive communities.” These are generally defined as communities that are vulnerable to gentrification.

## Local Flexibility Plans

In lieu of being subject to SB 50, local governments may submit a “local flexibility plan” that crafts their own housing plans. The local flexibility plan must create at least the same number of new units as would be allowed under SB 50.

By July 2, 2021, the Governor’s Office of Planning and Research shall publish rules, regulations, or guidelines for the submission and approval of a local flexibility plan. Local governments will have to submit their local flexibility plans to the Department of Housing and Community Development for review and approval. If the local flexibility plan is certified by the Department of Housing and Community Development, the local government would not be required to grant the incentives provided under SB 50.

To prevent a local government from concentrating new housing in certain areas, a local flexibility plan cannot result in increased vehicle miles traveled and must distribute new housing equally among both lower-income and more affluent areas. The goal being to add housing near jobs to reduce residents' commutes, and in turn help the state reach its greenhouse gas reduction goals.

## Priority Preference Program

In an effort to prevent displacement of low-income residents from their neighborhoods, individuals living within one-half mile of the housing development will receive priority for some of the project's homes. Forty percent of a housing development's affordable housing units are to be reserved for low income, very low income, and extremely low-income households living within one-half mile. Note, SB 50 does not include a provision for the creation of guidelines on implementation of the priority preference program.

## Sensitive Communities

By July 1, 2023, "sensitive communities" in each county shall be identified by a working group comprised of residents of potentially sensitive communities within the county. The working group will develop a map of sensitive communities within the county to be adopted by the board of supervisors or council of governments, as applicable. And implementation of SB 50 would be delayed until January 1, 2026, for the identified "sensitive communities." For "potentially sensitive communities," implementation of SB 50 would be delayed until July 1, 2023.

Senator Wiener has indicated that housing is his top legislative priority this year. And he is likely to have a receptive ally from Governor Gavin Newsom who has pledged to have 3.5 million new homes built by 2025.

SB 50 has until January 31, 2020, to pass the State Senate otherwise the proposal officially dies in the legislature.

*Authored by Reuben, Junius & Rose, LLP Attorney [Justin A. Zucker](#)*

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AMENDED IN SENATE JANUARY 6, 2020

AMENDED IN SENATE JUNE 4, 2019

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, McGuire, Moorlach,  
Skinner, and Stone Roth, and Skinner)**

(Coauthors: Assembly Members Chu, Diep, Fong, Kalra, Kiley, Low,  
McCarty, *Quirk-Silva*, 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, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

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

(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 within 60 days of the submission of the development to the local agency. If the local agency does not notify the development proponent within this time period, the development would be 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 projects, thereby exempting these projects from the CEQA approval process.

(2) Existing law, known as the 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, on or after January 1, 2023, would require a *specified* 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, upon request, waivers from maximum controls on density; minimum automobile parking requirements greater than 0.5 parking spots per unit; and 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; certain requirements governing the size of the parcel and the area that the building may occupy; 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 delay implementation of these provisions in potentially sensitive communities, as defined, until July 1, 2023. 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.*

*The bill would also exempt from these provisions a local government that has a local flexibility plan that has been reviewed and certified by the Department of Housing and Community Development, as specified. The bill, on or before July 1, 2021, would require the Governor's Office of Planning and Research, in consultation with the Department of Housing and Community Development, to develop and publish on its internet website rules, regulations, or guidelines for the submission and approval of a local flexibility plan, as specified. The bill, on or after July 1, 2021, would authorize a local government to submit a local flexibility plan for review and approval by the Department of Housing and Community Development pursuant to those rules, regulations, or guidelines.*

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. 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.

The Housing Accountability Act prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project 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.

(4) 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

1 caused by activities and policies of many local governments that  
2 limit the approval of housing, increase the cost of land for housing,  
3 and require that high fees and exactions be paid by producers of  
4 housing.

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

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

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

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

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

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

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

37 (E) California's overall homeownership rate is at its lowest level  
38 since the 1940s. The state ranks 49th out of the 50 states in  
39 homeownership rates as well as in the supply of housing per capita.

1 ~~Only one-half of California's households are able to afford the~~  
2 ~~cost of housing in their local regions.~~

3 ~~(F) Lack of supply and rising costs are compounding inequality~~  
4 ~~and limiting advancement opportunities for many Californians.~~

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

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

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

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

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

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

38 ~~(3) It is the intent of the Legislature that the conditions that~~  
39 ~~would have a specific, adverse impact upon the public health and~~

1 safety, as described in paragraph (2) of subdivision (d) and  
2 paragraph (1) of subdivision (j), arise infrequently.

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

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

17 (d) A local agency shall not disapprove a housing development  
18 project, including farmworker housing as defined in subdivision  
19 (h) of Section 50199.7 of the Health and Safety Code, for very  
20 low, low-, or moderate-income households, or an emergency  
21 shelter, or condition approval in a manner that renders the housing  
22 development project infeasible for development for the use of very  
23 low, low-, or moderate-income households, or an emergency  
24 shelter, including through the use of design review standards,  
25 unless it makes written findings, based upon a preponderance of  
26 the evidence in the record, as to one of the following:

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



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

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

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

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

33 (5) ~~The housing development project or emergency shelter is~~  
34 ~~inconsistent with both the jurisdiction’s zoning ordinance and~~  
35 ~~general plan land use designation as specified in any element of~~  
36 ~~the general plan as it existed on the date the application was~~  
37 ~~deemed complete, and the jurisdiction has adopted a revised~~  
38 ~~housing element in accordance with Section 65588 that is in~~  
39 ~~substantial compliance with this article. For purposes of this~~  
40 ~~section, a change to the zoning ordinance or general plan land use~~

1 designation subsequent to the date the application was deemed  
2 complete shall not constitute a valid basis to disapprove or  
3 condition approval of the housing development project or  
4 emergency shelter.

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

13 (B) If the local agency has failed to identify in the inventory of  
14 land in its housing element sites that can be developed for housing  
15 within the planning period and are sufficient to provide for the  
16 jurisdiction's share of the regional housing need for all income  
17 levels pursuant to Section 65584, then this paragraph shall not be  
18 utilized to disapprove or conditionally approve a housing  
19 development project proposed for a site designated in any element  
20 of the general plan for residential uses or designated in any element  
21 of the general plan for commercial uses if residential uses are  
22 permitted or conditionally permitted within commercial  
23 designations. In any action in court, the burden of proof shall be  
24 on the local agency to show that its housing element does identify  
25 adequate sites with appropriate zoning and development standards  
26 and with services and facilities to accommodate the local agency's  
27 share of the regional housing need for the very low, low-, and  
28 moderate-income categories.

29 (C) If the local agency has failed to identify a zone or zones  
30 where emergency shelters are allowed as a permitted use without  
31 a conditional use or other discretionary permit, has failed to  
32 demonstrate that the identified zone or zones include sufficient  
33 capacity to accommodate the need for emergency shelter identified  
34 in paragraph (7) of subdivision (a) of Section 65583, or has failed  
35 to demonstrate that the identified zone or zones can accommodate  
36 at least one emergency shelter, as required by paragraph (4) of  
37 subdivision (a) of Section 65583, then this paragraph shall not be  
38 utilized to disapprove or conditionally approve an emergency  
39 shelter proposed for a site designated in any element of the general  
40 plan for industrial, commercial, or multifamily residential uses. In

1 any action in court, the burden of proof shall be on the local agency  
2 to show that its housing element does satisfy the requirements of  
3 paragraph (4) of subdivision (a) of Section 65583.

4 ~~(e) Nothing in this section shall be construed to relieve the local  
5 agency from complying with the congestion management program  
6 required by Chapter 2.6 (commencing with Section 65088) of  
7 Division 1 of Title 7 or the California Coastal Act of 1976  
8 (Division 20 (commencing with Section 30000) of the Public  
9 Resources Code). Nothing in this section shall be construed to  
10 relieve the local agency from making one or more of the findings  
11 required pursuant to Section 21081 of the Public Resources Code  
12 or otherwise complying with the California Environmental Quality  
13 Act (Division 13 (commencing with Section 21000) of the Public  
14 Resources Code).~~

15 ~~(f) (1) Nothing in this section shall be construed to prohibit a  
16 local agency from requiring the housing development project to  
17 comply with objective, quantifiable, written development standards,  
18 conditions, and policies appropriate to, and consistent with, meeting  
19 the jurisdiction's share of the regional housing need pursuant to  
20 Section 65584. However, the development standards, conditions,  
21 and policies shall be applied to facilitate and accommodate  
22 development at the density permitted on the site and proposed by  
23 the development.~~

24 ~~(2) Nothing in this section shall be construed to prohibit a local  
25 agency from requiring an emergency shelter project to comply  
26 with objective, quantifiable, written development standards,  
27 conditions, and policies that are consistent with paragraph (4) of  
28 subdivision (a) of Section 65583 and appropriate to, and consistent  
29 with, meeting the jurisdiction's need for emergency shelter, as  
30 identified pursuant to paragraph (7) of subdivision (a) of Section  
31 65583. However, the development standards, conditions, and  
32 policies shall be applied by the local agency to facilitate and  
33 accommodate the development of the emergency shelter project.~~

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

38 ~~(4) For purposes of this section, a housing development project  
39 or emergency shelter shall be deemed consistent, compliant, and  
40 in conformity with an applicable plan, program, policy, ordinance,~~

1 standard, requirement, or other similar provision if there is  
2 substantial evidence that would allow a reasonable person to  
3 conclude that the housing development project or emergency  
4 shelter is consistent, compliant, or in conformity.

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

8 (h) The following definitions apply for the purposes of this  
9 section:

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

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

15 (A) Residential units only.

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

19 (C) Transitional housing or supportive housing.

20 (3) “Housing for very low, low-, or moderate-income  
21 households” means that either (A) at least 20 percent of the total  
22 units shall be sold or rented to lower income households, as defined  
23 in Section 50079.5 of the Health and Safety Code, or (B) 100  
24 percent of the units shall be sold or rented to persons and families  
25 of moderate income as defined in Section 50093 of the Health and  
26 Safety Code, or persons and families of middle income, as defined  
27 in Section 65008 of this code. Housing units targeted for lower  
28 income households shall be made available at a monthly housing  
29 cost that does not exceed 30 percent of 60 percent of area median  
30 income with adjustments for household size made in accordance  
31 with the adjustment factors on which the lower income eligibility  
32 limits are based. Housing units targeted for persons and families  
33 of moderate income shall be made available at a monthly housing  
34 cost that does not exceed 30 percent of 100 percent of area median  
35 income with adjustments for household size made in accordance  
36 with the adjustment factors on which the moderate-income  
37 eligibility limits are based.

38 (4) “Area median income” means area median income as  
39 periodically established by the Department of Housing and  
40 Community Development pursuant to Section 50093 of the Health

1 and Safety Code. The developer shall provide sufficient legal  
2 commitments to ensure continued availability of units for very low  
3 or low-income households in accordance with the provisions of  
4 this subdivision for 30 years.

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

7 (A) Votes on a proposed housing development project  
8 application and the application is disapproved, including any  
9 required land use approvals or entitlements necessary for the  
10 issuance of a building permit.

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

15 (i) If any city, county, or city and county denies approval or  
16 imposes conditions, including design changes, lower density, or  
17 a reduction of the percentage of a lot that may be occupied by a  
18 building or structure under the applicable planning and zoning in  
19 force at the time the application is deemed complete pursuant to  
20 Section 65943, that have a substantial adverse effect on the viability  
21 or affordability of a housing development for very low, low-, or  
22 moderate-income households, and the denial of the development  
23 or the imposition of conditions on the development is the subject  
24 of a court action which challenges the denial or the imposition of  
25 conditions, then the burden of proof shall be on the local legislative  
26 body to show that its decision is consistent with the findings as  
27 described in subdivision (d) and that the findings are supported by  
28 a preponderance of the evidence in the record. For purposes of this  
29 section, “lower density” includes any conditions that have the same  
30 effect or impact on the ability of the project to provide housing.

31 (j) (1) When a proposed housing development project complies  
32 with applicable, objective general plan, zoning, and subdivision  
33 standards and criteria, including design review standards, in effect  
34 at the time that the housing development project’s application is  
35 determined to be complete, but the local agency proposes to  
36 disapprove the project or to impose a condition that the project be  
37 developed at a lower density, the local agency shall base its  
38 decision regarding the proposed housing development project upon  
39 written findings supported by a preponderance of the evidence on  
40 the record that both of the following conditions exist:

1     ~~(A) The housing development project would have a specific,~~  
2 ~~adverse impact upon the public health or safety unless the project~~  
3 ~~is disapproved or approved upon the condition that the project be~~  
4 ~~developed at a lower density. As used in this paragraph, a “specific,~~  
5 ~~adverse impact” means a significant, quantifiable, direct, and~~  
6 ~~unavoidable impact, based on objective, identified written public~~  
7 ~~health or safety standards, policies, or conditions as they existed~~  
8 ~~on the date the application was deemed complete.~~

9     ~~(B) There is no feasible method to satisfactorily mitigate or~~  
10 ~~avoid the adverse impact identified pursuant to paragraph (1), other~~  
11 ~~than the disapproval of the housing development project or the~~  
12 ~~approval of the project upon the condition that it be developed at~~  
13 ~~a lower density.~~

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

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

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

29     ~~(B) If the local agency fails to provide the required~~  
30 ~~documentation pursuant to subparagraph (A), the housing~~  
31 ~~development project shall be deemed consistent, compliant, and~~  
32 ~~in conformity with the applicable plan, program, policy, ordinance,~~  
33 ~~standard, requirement, or other similar provision.~~

34     ~~(3) For purposes of this section, the receipt of a density bonus~~  
35 ~~pursuant to Section 65915 or an equitable communities incentive~~  
36 ~~pursuant to Section 65918.51 shall not constitute a valid basis on~~  
37 ~~which to find a proposed housing development project is~~  
38 ~~inconsistent, not in compliance, or not in conformity with an~~  
39 ~~applicable plan, program, policy, ordinance, standard, requirement,~~  
40 ~~or other similar provision specified in this subdivision.~~

1     ~~(4) For purposes of this section, a proposed housing development~~  
2 ~~project is not inconsistent with the applicable zoning standards~~  
3 ~~and criteria, and shall not require a rezoning, if the housing~~  
4 ~~development project is consistent with the objective general plan~~  
5 ~~standards and criteria but the zoning for the project site is~~  
6 ~~inconsistent with the general plan. If the local agency has complied~~  
7 ~~with paragraph (2), the local agency may require the proposed~~  
8 ~~housing development project to comply with the objective~~  
9 ~~standards and criteria of the zoning which is consistent with the~~  
10 ~~general plan, however, the standards and criteria shall be applied~~  
11 ~~to facilitate and accommodate development at the density allowed~~  
12 ~~on the site by the general plan and proposed by the proposed~~  
13 ~~housing development project.~~

14     ~~(5) For purposes of this section, “lower density” includes any~~  
15 ~~conditions that have the same effect or impact on the ability of the~~  
16 ~~project to provide housing.~~

17     ~~(k) (1) (A) The applicant, a person who would be eligible to~~  
18 ~~apply for residency in the development or emergency shelter, or~~  
19 ~~a housing organization may bring an action to enforce this section.~~  
20 ~~If, in any action brought to enforce this section, a court finds that~~  
21 ~~either (i) the local agency, in violation of subdivision (d),~~  
22 ~~disapproved a housing development project or conditioned its~~  
23 ~~approval in a manner rendering it infeasible for the development~~  
24 ~~of an emergency shelter, or housing for very low, low-, or~~  
25 ~~moderate-income households, including farmworker housing,~~  
26 ~~without making the findings required by this section or without~~  
27 ~~making findings supported by a preponderance of the evidence,~~  
28 ~~or (ii) the local agency, in violation of subdivision (j), disapproved~~  
29 ~~a housing development project complying with applicable,~~  
30 ~~objective general plan and zoning standards and criteria, or imposed~~  
31 ~~a condition that the project be developed at a lower density, without~~  
32 ~~making the findings required by this section or without making~~  
33 ~~findings supported by a preponderance of the evidence, the court~~  
34 ~~shall issue an order or judgment compelling compliance with this~~  
35 ~~section within 60 days, including, but not limited to, an order that~~  
36 ~~the local agency take action on the housing development project~~  
37 ~~or emergency shelter. The court may issue an order or judgment~~  
38 ~~directing the local agency to approve the housing development~~  
39 ~~project or emergency shelter if the court finds that the local agency~~  
40 ~~acted in bad faith when it disapproved or conditionally approved~~

1 the housing development or emergency shelter in violation of this  
2 section. The court shall retain jurisdiction to ensure that its order  
3 or judgment is carried out and shall award reasonable attorney's  
4 fees and costs of suit to the plaintiff or petitioner, except under  
5 extraordinary circumstances in which the court finds that awarding  
6 fees would not further the purposes of this section. For purposes  
7 of this section, "lower density" includes conditions that have the  
8 same effect or impact on the ability of the project to provide  
9 housing.

10 (B) (i) Upon a determination that the local agency has failed  
11 to comply with the order or judgment compelling compliance with  
12 this section within 60 days issued pursuant to subparagraph (A),  
13 the court shall impose fines on a local agency that has violated this  
14 section and require the local agency to deposit any fine levied  
15 pursuant to this subdivision into a local housing trust fund. The  
16 local agency may elect to instead deposit the fine into the Building  
17 Homes and Jobs Trust Fund, if Senate Bill 2 of the 2017-18  
18 Regular Session is enacted, or otherwise in the Housing  
19 Rehabilitation Loan Fund. The fine shall be in a minimum amount  
20 of ten thousand dollars (\$10,000) per housing unit in the housing  
21 development project on the date the application was deemed  
22 complete pursuant to Section 65943. In determining the amount  
23 of fine to impose, the court shall consider the local agency's  
24 progress in attaining its target allocation of the regional housing  
25 need pursuant to Section 65584 and any prior violations of this  
26 section. Fines shall not be paid out of funds already dedicated to  
27 affordable housing, including, but not limited to, Low and  
28 Moderate Income Housing Asset Funds, funds dedicated to housing  
29 for very low, low-, and moderate-income households, and federal  
30 HOME Investment Partnerships Program and Community  
31 Development Block Grant Program funds. The local agency shall  
32 commit and expend the money in the local housing trust fund  
33 within five years for the sole purpose of financing newly  
34 constructed housing units affordable to extremely low, very low,  
35 or low-income households. After five years, if the funds have not  
36 been expended, the money shall revert to the state and be deposited  
37 in the Building Homes and Jobs Trust Fund, if Senate Bill 2 of the  
38 2017-18 Regular Session is enacted, or otherwise in the Housing  
39 Rehabilitation Loan Fund, for the sole purpose of financing newly



1 constructed housing units affordable to extremely low, very low,  
2 or low-income households.

3 (ii) ~~If any money derived from a fine imposed pursuant to this~~  
4 ~~subparagraph is deposited in the Housing Rehabilitation Loan~~  
5 ~~Fund, then, notwithstanding Section 50661 of the Health and Safety~~  
6 ~~Code, that money shall be available only upon appropriation by~~  
7 ~~the Legislature.~~

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

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

32 (l) ~~If the court finds that the local agency (1) acted in bad faith~~  
33 ~~when it disapproved or conditionally approved the housing~~  
34 ~~development or emergency shelter in violation of this section and~~  
35 ~~(2) failed to carry out the court’s order or judgment within 60 days~~  
36 ~~as described in subdivision (k), the court, in addition to any other~~  
37 ~~remedies provided by this section, shall multiply the fine~~  
38 ~~determined pursuant to subparagraph (B) of paragraph (1) of~~  
39 ~~subdivision (k) by a factor of five. For purposes of this section,~~

1 “bad faith” includes, but is not limited to, an action that is frivolous  
2 or otherwise entirely without merit.

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

27 ~~(n) In any action, the record of the proceedings before the local  
28 agency shall be filed as expeditiously as possible and,  
29 notwithstanding Section 1094.6 of the Code of Civil Procedure or  
30 subdivision (m) of this section, all or part of the record may be  
31 prepared (1) by the petitioner with the petition or petitioner’s points  
32 and authorities, (2) by the respondent with respondent’s points and  
33 authorities, (3) after payment of costs by the petitioner, or (4) as  
34 otherwise directed by the court. If the expense of preparing the  
35 record has been borne by the petitioner and the petitioner is the  
36 prevailing party, the expense shall be taxable as costs.~~

37 ~~(o) This section shall be known, and may be cited, as the  
38 Housing Accountability Act.~~

1     SECTION 1. *Section 65589.5 of the Government Code, as*  
2 *amended by Section 3.1 of Chapter 665 of the Statutes of 2019, is*  
3 *amended to read:*

4     65589.5. (a) (1) The Legislature finds and declares all of the  
5 following:

6     (A) The lack of housing, including emergency shelters, is a  
7 critical problem that threatens the economic, environmental, and  
8 social quality of life in California.

9     (B) California housing has become the most expensive in the  
10 nation. The excessive cost of the state's housing supply is partially  
11 caused by activities and policies of many local governments that  
12 limit the approval of housing, increase the cost of land for housing,  
13 and require that high fees and exactions be paid by producers of  
14 housing.

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

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

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

28     (A) California has a housing supply and affordability crisis of  
29 historic proportions. The consequences of failing to effectively  
30 and aggressively confront this crisis are hurting millions of  
31 Californians, robbing future generations of the chance to call  
32 California home, stifling economic opportunities for workers and  
33 businesses, worsening poverty and homelessness, and undermining  
34 the state's environmental and climate objectives.

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

39     (C) The crisis has grown so acute in California that supply,  
40 demand, and affordability fundamentals are characterized in the

1 negative: underserved demands, constrained supply, and protracted  
2 unaffordability.

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

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

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

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

18 (H) When Californians have access to safe and affordable  
19 housing, they have more money for food and health care; they are  
20 less likely to become homeless and in need of  
21 government-subsidized services; their children do better in school;  
22 and businesses have an easier time recruiting and retaining  
23 employees.

24 (I) An additional consequence of the state's cumulative housing  
25 shortage is a significant increase in greenhouse gas emissions  
26 caused by the displacement and redirection of populations to states  
27 with greater housing opportunities, particularly working- and  
28 middle-class households. California's cumulative housing shortfall  
29 therefore has not only national but international environmental  
30 consequences.

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

36 (K) The Legislature's intent in enacting this section in 1982 and  
37 in expanding its provisions since then was to significantly increase  
38 the approval and construction of new housing for all economic  
39 segments of California's communities by meaningfully and  
40 effectively curbing the capability of local governments to deny,

1 reduce the density for, or render infeasible housing development  
2 projects and emergency shelters. That intent has not been fulfilled.

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

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

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

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

24 (d) A local agency shall not disapprove a housing development  
25 project, including farmworker housing as defined in subdivision  
26 (h) of Section 50199.7 of the Health and Safety Code, for very  
27 low, low-, or moderate-income households, or an emergency  
28 shelter, or condition approval in a manner that renders the housing  
29 development project infeasible for development for the use of very  
30 low, low-, or moderate-income households, or an emergency  
31 shelter, including through the use of design review standards,  
32 unless it makes written findings, based upon a preponderance of  
33 the evidence in the record, as to one of the following:

34 (1) The jurisdiction has adopted a housing element pursuant to  
35 this article that has been revised in accordance with Section 65588,  
36 is in substantial compliance with this article, and the jurisdiction  
37 has met or exceeded its share of the regional housing need  
38 allocation pursuant to Section 65584 for the planning period for  
39 the income category proposed for the housing development project,  
40 provided that any disapproval or conditional approval shall not be

1 based on any of the reasons prohibited by Section 65008. If the  
2 housing development project includes a mix of income categories,  
3 and the jurisdiction has not met or exceeded its share of the regional  
4 housing need for one or more of those categories, then this  
5 paragraph shall not be used to disapprove or conditionally approve  
6 the housing development project. The share of the regional housing  
7 need met by the jurisdiction shall be calculated consistently with  
8 the forms and definitions that may be adopted by the Department  
9 of Housing and Community Development pursuant to Section  
10 65400. In the case of an emergency shelter, the jurisdiction shall  
11 have met or exceeded the need for emergency shelter, as identified  
12 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any  
13 disapproval or conditional approval pursuant to this paragraph  
14 shall be in accordance with applicable law, rule, or standards.

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

28 (A) Inconsistency with the zoning ordinance or general plan  
29 land use designation.

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

32 (3) The denial of the housing development project or imposition  
33 of conditions is required in order to comply with specific state or  
34 federal law, and there is no feasible method to comply without  
35 rendering the development unaffordable to low- and  
36 moderate-income households or rendering the development of the  
37 emergency shelter financially infeasible.

38 (4) The housing development project or emergency shelter is  
39 proposed on land zoned for agriculture or resource preservation  
40 that is surrounded on at least two sides by land being used for

1 agricultural or resource preservation purposes, or which does not  
2 have adequate water or wastewater facilities to serve the project.

3 (5) The housing development project or emergency shelter is  
4 inconsistent with both the jurisdiction's zoning ordinance and  
5 general plan land use designation as specified in any element of  
6 the general plan as it existed on the date the application was  
7 deemed complete, and the jurisdiction has adopted a revised  
8 housing element in accordance with Section 65588 that is in  
9 substantial compliance with this article. For purposes of this  
10 section, a change to the zoning ordinance or general plan land use  
11 designation subsequent to the date the application was deemed  
12 complete shall not constitute a valid basis to disapprove or  
13 condition approval of the housing development project or  
14 emergency shelter.

15 (A) This paragraph cannot be utilized to disapprove or  
16 conditionally approve a housing development project if the housing  
17 development project is proposed on a site that is identified as  
18 suitable or available for very low, low-, or moderate-income  
19 households in the jurisdiction's housing element, and consistent  
20 with the density specified in the housing element, even though it  
21 is inconsistent with both the jurisdiction's zoning ordinance and  
22 general plan land use designation.

23 (B) If the local agency has failed to identify in the inventory of  
24 land in its housing element sites that can be developed for housing  
25 within the planning period and are sufficient to provide for the  
26 jurisdiction's share of the regional housing need for all income  
27 levels pursuant to Section 65584, then this paragraph shall not be  
28 utilized to disapprove or conditionally approve a housing  
29 development project proposed for a site designated in any element  
30 of the general plan for residential uses or designated in any element  
31 of the general plan for commercial uses if residential uses are  
32 permitted or conditionally permitted within commercial  
33 designations. In any action in court, the burden of proof shall be  
34 on the local agency to show that its housing element does identify  
35 adequate sites with appropriate zoning and development standards  
36 and with services and facilities to accommodate the local agency's  
37 share of the regional housing need for the very low, low-, and  
38 moderate-income categories.

39 (C) If the local agency has failed to identify a zone or zones  
40 where emergency shelters are allowed as a permitted use without

1 a conditional use or other discretionary permit, has failed to  
2 demonstrate that the identified zone or zones include sufficient  
3 capacity to accommodate the need for emergency shelter identified  
4 in paragraph (7) of subdivision (a) of Section 65583, or has failed  
5 to demonstrate that the identified zone or zones can accommodate  
6 at least one emergency shelter, as required by paragraph (4) of  
7 subdivision (a) of Section 65583, then this paragraph shall not be  
8 utilized to disapprove or conditionally approve an emergency  
9 shelter proposed for a site designated in any element of the general  
10 plan for industrial, commercial, or multifamily residential uses. In  
11 any action in court, the burden of proof shall be on the local agency  
12 to show that its housing element does satisfy the requirements of  
13 paragraph (4) of subdivision (a) of Section 65583.

14 (e) Nothing in this section shall be construed to relieve the local  
15 agency from complying with the congestion management program  
16 required by Chapter 2.6 (commencing with Section 65088) of  
17 Division 1 of Title 7 or the California Coastal Act of 1976  
18 (Division 20 (commencing with Section 30000) of the Public  
19 Resources Code). ~~Neither shall anything in this section~~ *This section*  
20 *shall not* be construed to relieve the local agency from making one  
21 or more of the findings required pursuant to Section 21081 of the  
22 Public Resources Code or otherwise complying with the California  
23 Environmental Quality Act (Division 13 (commencing with Section  
24 21000) of the Public Resources Code).

25 (f) (1) Except as provided in subdivision (o), nothing in shall  
26 be construed to prohibit a local agency from requiring the housing  
27 development project to comply with objective, quantifiable, written  
28 development standards, conditions, and policies appropriate to,  
29 and consistent with, meeting the jurisdiction's share of the regional  
30 housing need pursuant to Section 65584. However, the  
31 development standards, conditions, and policies shall be applied  
32 to facilitate and accommodate development at the density permitted  
33 on the site and proposed by the development.

34 (2) Except as provided in subdivision (o), nothing in shall be  
35 construed to prohibit a local agency from requiring an emergency  
36 shelter project to comply with objective, quantifiable, written  
37 development standards, conditions, and policies that are consistent  
38 with paragraph (4) of subdivision (a) of Section 65583 and  
39 appropriate to, and consistent with, meeting the jurisdiction's need  
40 for emergency shelter, as identified pursuant to paragraph (7) of



1 subdivision (a) of Section 65583. However, the development  
2 standards, conditions, and policies shall be applied by the local  
3 agency to facilitate and accommodate the development of the  
4 emergency shelter project.

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

10 (4) For purposes of this section, a housing development project  
11 or emergency shelter shall be deemed consistent, compliant, and  
12 in conformity with an applicable plan, program, policy, ordinance,  
13 standard, requirement, or other similar provision if there is  
14 substantial evidence that would allow a reasonable person to  
15 conclude that the housing development project or emergency  
16 shelter is consistent, compliant, or in conformity.

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

20 (h) The following definitions apply for the purposes of this  
21 section:

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

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

27 (A) Residential units only.

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

31 (C) Transitional housing or supportive housing.

32 (3) “Housing for very low, low-, or moderate-income  
33 households” means that either (A) at least 20 percent of the total  
34 units shall be sold or rented to lower income households, as defined  
35 in Section 50079.5 of the Health and Safety Code, or (B) 100  
36 percent of the units shall be sold or rented to persons and families  
37 of moderate income as defined in Section 50093 of the Health and  
38 Safety Code, or persons and families of middle income, as defined  
39 in Section 65008 of this code. Housing units targeted for lower  
40 income households shall be made available at a monthly housing

1 cost that does not exceed 30 percent of 60 percent of area median  
2 income with adjustments for household size made in accordance  
3 with the adjustment factors on which the lower income eligibility  
4 limits are based. Housing units targeted for persons and families  
5 of moderate income shall be made available at a monthly housing  
6 cost that does not exceed 30 percent of 100 percent of area median  
7 income with adjustments for household size made in accordance  
8 with the adjustment factors on which the moderate-income  
9 eligibility limits are based.

10 (4) “Area median income” means area median income as  
11 periodically established by the Department of Housing and  
12 Community Development pursuant to Section 50093 of the Health  
13 and Safety Code. The developer shall provide sufficient legal  
14 commitments to ensure continued availability of units for very low  
15 or low-income households in accordance with the provisions of  
16 this subdivision for 30 years.

17 (5) Notwithstanding any other law, until January 1, 2025,  
18 “deemed complete” means that the applicant has submitted a  
19 preliminary application pursuant to Section 65941.1.

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

22 (A) Votes on a proposed housing development project  
23 application and the application is disapproved, including any  
24 required land use approvals or entitlements necessary for the  
25 issuance of a building permit.

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

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

32 (8) Until January 1, 2025, “objective” means involving no  
33 personal or subjective judgment by a public official and being  
34 uniformly verifiable by reference to an external and uniform  
35 benchmark or criterion available and knowable by both the  
36 development applicant or proponent and the public official.

37 (9) Notwithstanding any other law, until January 1, 2025,  
38 “determined to be complete” means that the applicant has submitted  
39 a complete application pursuant to Section 65943.

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

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

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

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

38 (2) (A) If the local agency considers a proposed housing  
39 development project to be inconsistent, not in compliance, or not  
40 in conformity with an applicable plan, program, policy, ordinance,

1 standard, requirement, or other similar provision as specified in  
2 this subdivision, it shall provide the applicant with written  
3 documentation identifying the provision or provisions, and an  
4 explanation of the reason or reasons it considers the housing  
5 development to be inconsistent, not in compliance, or not in  
6 conformity as follows:

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

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

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

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

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

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

1 to enforce this section. If, in any action brought to enforce this  
2 section, a court finds that any of the following are met, the court  
3 shall issue an order pursuant to clause (ii):

4 (I) The local agency, in violation of subdivision (d), disapproved  
5 a housing development project or conditioned its approval in a  
6 manner rendering it infeasible for the development of an emergency  
7 shelter, or housing for very low, low-, or moderate-income  
8 households, including farmworker housing, without making the  
9 findings required by this section or without making findings  
10 supported by a preponderance of the evidence.

11 (II) The local agency, in violation of subdivision (j), disapproved  
12 a housing development project complying with applicable,  
13 objective general plan and zoning standards and criteria, or imposed  
14 a condition that the project be developed at a lower density, without  
15 making the findings required by this section or without making  
16 findings supported by a preponderance of the evidence.

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

22 (ib) This subclause shall become inoperative on January 1, 2025.

23 (ii) If the court finds that one of the conditions in clause(i) is  
24 met, the court shall issue an order or judgment compelling  
25 compliance with this section within 60 days, including, but not  
26 limited to, an order that the local agency take action on the housing  
27 development project or emergency shelter. The court may issue  
28 an order or judgment directing the local agency to approve the  
29 housing development project or emergency shelter if the court  
30 finds that the local agency acted in bad faith when it disapproved  
31 or conditionally approved the housing development or emergency  
32 shelter in violation of this section. The court shall retain jurisdiction  
33 to ensure that its order or judgment is carried out and shall award  
34 reasonable attorney’s fees and costs of suit to the plaintiff or  
35 petitioner, except under extraordinary circumstances in which the  
36 court finds that awarding fees would not further the purposes of  
37 this section.

38 (B) (i) Upon a determination that the local agency has failed  
39 to comply with the order or judgment compelling compliance with  
40 this section within 60 days issued pursuant to subparagraph (A),

1 the court shall impose fines on a local agency that has violated this  
2 section and require the local agency to deposit any fine levied  
3 pursuant to this subdivision into a local housing trust fund. The  
4 local agency may elect to instead deposit the fine into the Building  
5 Homes and Jobs *Trust* Fund, if Senate Bill 2 of the 2017–18  
6 Regular Session is enacted, or otherwise in the Housing  
7 Rehabilitation Loan Fund. The fine shall be in a minimum amount  
8 of ten thousand dollars (\$10,000) per housing unit in the housing  
9 development project on the date the application was deemed  
10 complete pursuant to Section 65943. In determining the amount  
11 of fine to impose, the court shall consider the local agency’s  
12 progress in attaining its target allocation of the regional housing  
13 need pursuant to Section 65584 and any prior violations of this  
14 section. Fines shall not be paid out of funds already dedicated to  
15 affordable housing, including, but not limited to, Low and  
16 Moderate Income Housing Asset Funds, funds dedicated to housing  
17 for very low, low-, and moderate-income households, and federal  
18 HOME Investment Partnerships Program and Community  
19 Development Block Grant Program funds. The local agency shall  
20 commit and expend the money in the local housing trust fund  
21 within five years for the sole purpose of financing newly  
22 constructed housing units affordable to extremely low, very low,  
23 or low-income households. After five years, if the funds have not  
24 been expended, the money shall revert to the state and be deposited  
25 in the Building Homes and Jobs *Trust* Fund, if Senate Bill 2 of the  
26 2017–18 Regular Session is enacted, or otherwise in the Housing  
27 Rehabilitation Loan Fund, for the sole purpose of financing newly  
28 constructed housing units affordable to extremely low, very low,  
29 or low-income households.

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

35 (C) If the court determines that its order or judgment has not  
36 been carried out within 60 days, the court may issue further orders  
37 as provided by law to ensure that the purposes and policies of this  
38 section are fulfilled, including, but not limited to, an order to vacate  
39 the decision of the local agency and to approve the housing  
40 development project, in which case the application for the housing

1 development project, as proposed by the applicant at the time the  
2 local agency took the initial action determined to be in violation  
3 of this section, along with any standard conditions determined by  
4 the court to be generally imposed by the local agency on similar  
5 projects, shall be deemed to be approved unless the applicant  
6 consents to a different decision or action by the local agency.

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

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

29 (m) Any action brought to enforce the provisions of this section  
30 shall be brought pursuant to Section 1094.5 of the Code of Civil  
31 Procedure, and the local agency shall prepare and certify the record  
32 of proceedings in accordance with subdivision (c) of Section 1094.6  
33 of the Code of Civil Procedure no later than 30 days after the  
34 petition is served, provided that the cost of preparation of the record  
35 shall be borne by the local agency, unless the petitioner elects to  
36 prepare the record as provided in subdivision (n) of this section.  
37 A petition to enforce the provisions of this section shall be filed  
38 and served no later than 90 days from the later of (1) the effective  
39 date of a decision of the local agency imposing conditions on,  
40 disapproving, or any other final action on a housing development

1 project or (2) the expiration of the time periods specified in  
2 subparagraph (B) of paragraph (5) of subdivision (h). Upon entry  
3 of the trial court's order, a party may, in order to obtain appellate  
4 review of the order, file a petition within 20 days after service  
5 upon it of a written notice of the entry of the order, or within such  
6 further time not exceeding an additional 20 days as the trial court  
7 may for good cause allow, or may appeal the judgment or order  
8 of the trial court under Section 904.1 of the Code of Civil  
9 Procedure. If the local agency appeals the judgment of the trial  
10 court, the local agency shall post a bond, in an amount to be  
11 determined by the court, to the benefit of the plaintiff if the plaintiff  
12 is the project applicant.

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

23 (o) (1) Subject to paragraphs (2), (6), and (7), and subdivision  
24 (d) of Section 65941.1, a housing development project shall be  
25 subject only to the ordinances, policies, and standards adopted and  
26 in effect when a preliminary application including all of the  
27 information required by subdivision (a) of Section 65941.1 was  
28 submitted.

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

33 (A) In the case of a fee, charge, or other monetary exaction, to  
34 an increase resulting from an automatic annual adjustment based  
35 on an independently published cost index that is referenced in the  
36 ordinance or resolution establishing the fee or other monetary  
37 exaction.

38 (B) A preponderance of the evidence in the record establishes  
39 that subjecting the housing development project to an ordinance,  
40 policy, or standard beyond those in effect when a preliminary



1 application was submitted is necessary to mitigate or avoid a  
2 specific, adverse impact upon the public health or safety, as defined  
3 in subparagraph (A) of paragraph (1) of subdivision (j), and there  
4 is no feasible alternative method to satisfactorily mitigate or avoid  
5 the adverse impact.

6 (C) Subjecting the housing development project to an ordinance,  
7 policy, standard, or any other measure, beyond those in effect when  
8 a preliminary application was submitted is necessary to avoid or  
9 substantially lessen an impact of the project under the California  
10 Environmental Quality Act (Division 13 (commencing with Section  
11 21000) of the Public Resources Code).

12 (D) The housing development project has not commenced  
13 construction within two and one-half years following the date that  
14 the project received final approval. For purposes of this  
15 subparagraph, “final approval” means that the housing development  
16 project has received all necessary approvals to be eligible to apply  
17 for, and obtain, a building permit or permits and either of the  
18 following is met:

19 (i) The expiration of all applicable appeal periods, petition  
20 periods, reconsideration periods, or statute of limitations for  
21 challenging that final approval without an appeal, petition, request  
22 for reconsideration, or legal challenge having been filed.

23 (ii) If a challenge is filed, that challenge is fully resolved or  
24 settled in favor of the housing development project.

25 (E) The housing development project is revised following  
26 submittal of a preliminary application pursuant to Section 65941.1  
27 such that the number of residential units or square footage of  
28 construction changes by 20 percent or more, exclusive of any  
29 increase resulting from the receipt of a density bonus, incentive,  
30 concession, waiver, or similar provision. For purposes of this  
31 subdivision, “square footage of construction” means the building  
32 area, as defined by the California Building Standards Code (Title  
33 24 of the California Code of Regulations).

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

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

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

13 (6) This subdivision shall not restrict the authority of a public  
14 agency or local agency to require mitigation measures to lessen  
15 the impacts of a housing development project under the California  
16 Environmental Quality Act (Division 13 (commencing with Section  
17 21000) of the Public Resources Code).

18 (7) With respect to completed residential units for which the  
19 project approval process is complete and a certificate of occupancy  
20 has been issued, nothing in this subdivision shall limit the  
21 application of later enacted ordinances, policies, and standards  
22 that regulate the use and occupancy of those residential units, such  
23 as ordinances relating to rental housing inspection, rent  
24 stabilization, restrictions on short-term renting, and business  
25 licensing requirements for owners of rental housing.

26 (8) This subdivision shall become inoperative on January 1,  
27 2025.

28 (p) This section shall be known, and may be cited, as the  
29 Housing Accountability Act.

30 SEC. 2. Section 65913.5 is added to the Government Code, to  
31 read:

32 65913.5. For purposes of this section and Section 65913.6, the  
33 following definitions shall apply:

34 (a) “Development proponent” means the developer who submits  
35 an application for streamlined approval pursuant to Section  
36 65913.6.

37 (b) “Eligible parcel” means a parcel that meets all of the  
38 following requirements:

39 (1) *The parcel is not located on a site that is on a coastal zone,*  
40 *as defined in Division 20 (commencing with Section 30000) of the*

1 *Public Resources Code, unless the local agency has a population*  
2 *of 50,000 or more, based on the most recent United States Census*  
3 *Bureau data.*

4 (1)

5 (2) The parcel satisfies the requirements specified in paragraph  
6 (2) of subdivision (a) of Section 65913.4.

7 (3) *The parcel satisfies the requirements specified in*  
8 *subparagraphs (B) to (K), inclusive, of paragraph (6) of*  
9 *subdivision (a) of Section 65913.4.*

10 (2) The parcel is not located on a site that is any of the following:

11 (A) A coastal zone, as defined in Division 20 (commencing  
12 with Section 30000) of the Public Resources Code, unless the local  
13 agency has a population of 50,000 or more, based on the most  
14 recent United States Census Bureau data.

15 (B) Either prime farmland or farmland of statewide importance,  
16 as defined pursuant to United States Department of Agriculture  
17 land inventory and monitoring criteria, as modified for California,  
18 and designated on the maps prepared by the Farmland Mapping  
19 and Monitoring Program of the Department of Conservation, or  
20 land zoned or designated for agricultural protection or preservation  
21 by a local ballot measure that was approved by the voters of that  
22 jurisdiction.

23 (C) Wetlands, as defined in the United States Fish and Wildlife  
24 Service Manual, Part 660 FW 2 (June 21, 1993).

25 (D) Within a very high fire hazard severity zone, as determined  
26 by the Department of Forestry and Fire Protection pursuant to  
27 Section 51178, or within a high or very high fire hazard severity  
28 zone as indicated on maps adopted by the Department of Forestry  
29 and Fire Protection pursuant to Section 4202 of the Public  
30 Resources Code. A parcel is not ineligible within the meaning of  
31 this subparagraph if it is either:

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

34 (ii) A site that has adopted fire hazard mitigation measures  
35 pursuant to existing building standards or state fire mitigation  
36 measures applicable to the development.

37 (E) A hazardous waste site that is listed pursuant to Section  
38 65962.5 or a hazardous waste site designated by the Department  
39 of Toxic Substances Control pursuant to Section 25356 of the  
40 Health and Safety Code, unless the Department of Toxic

1 ~~Substances Control has cleared the site for residential use or~~  
2 ~~residential mixed uses.~~

3 ~~(F) Within a delineated earthquake fault zone as determined by~~  
4 ~~the State Geologist in any official maps published by the State~~  
5 ~~Geologist, unless the development complies with applicable seismic~~  
6 ~~protection building code standards adopted by the California~~  
7 ~~Building Standards Commission under the California Building~~  
8 ~~Standards Law (Part 2.5 (commencing with Section 18901) of~~  
9 ~~Division 13 of the Health and Safety Code), and by any local~~  
10 ~~building department under Chapter 12.2 (commencing with Section~~  
11 ~~8875) of Division 1 of Title 2.~~

12 ~~(G) Within a special flood hazard area subject to inundation by~~  
13 ~~the 1-percent annual chance flood (100-year flood) as determined~~  
14 ~~by the Federal Emergency Management Agency in any official~~  
15 ~~maps published by the Federal Emergency Management Agency.~~  
16 ~~If a development proponent is able to satisfy all applicable federal~~  
17 ~~qualifying criteria in order to provide that the site satisfies this~~  
18 ~~subparagraph and is otherwise eligible for streamlined approval~~  
19 ~~under this section, a local government shall not deny the application~~  
20 ~~on the basis that the development proponent did not comply with~~  
21 ~~any additional permit requirement, standard, or action adopted by~~  
22 ~~that local government that is applicable to that site. A development~~  
23 ~~may be located on a site described in this subparagraph if either~~  
24 ~~of the following are met:~~

25 ~~(i) The site has been subject to a Letter of Map Revision~~  
26 ~~prepared by the Federal Emergency Management Agency and~~  
27 ~~issued to the local jurisdiction.~~

28 ~~(ii) The site meets Federal Emergency Management Agency~~  
29 ~~requirements necessary to meet minimum flood plain management~~  
30 ~~criteria of the National Flood Insurance Program pursuant to Part~~  
31 ~~59 (commencing with Section 59.1) and Part 60 (commencing~~  
32 ~~with Section 60.1) of Subchapter B of Chapter I of Title 44 of the~~  
33 ~~Code of Federal Regulations.~~

34 ~~(H) Within a regulatory floodway as determined by the Federal~~  
35 ~~Emergency Management Agency in any official maps published~~  
36 ~~by the Federal Emergency Management Agency, unless the~~  
37 ~~development has received a no-rise certification in accordance~~  
38 ~~with Section 60.3(d)(3) of Title 44 of the Code of Federal~~  
39 ~~Regulations. If a development proponent is able to satisfy all~~  
40 ~~applicable federal qualifying criteria in order to provide that the~~

1 ~~site satisfies this subparagraph and is otherwise eligible for~~  
2 ~~streamlined approval under this section, a local government shall~~  
3 ~~not deny the application on the basis that the development~~  
4 ~~proponent did not comply with any additional permit requirement,~~  
5 ~~standard, or action adopted by that local government that is~~  
6 ~~applicable to that site.~~

7 ~~(I) Lands identified for conservation in any of the following:~~

8 ~~(i) An adopted natural community conservation plan pursuant~~  
9 ~~to the Natural Community Conservation Planning Act (Chapter~~  
10 ~~10 (commencing with Section 2800) of Division 3 of the Fish and~~  
11 ~~Game Code).~~

12 ~~(ii) A habitat conservation plan pursuant to the federal~~  
13 ~~Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).~~

14 ~~(iii) Any other adopted natural resource protection plan.~~

15 ~~(J) Habitat for protected species identified as candidate,~~  
16 ~~sensitive, or species of special status by state or federal agencies,~~  
17 ~~fully protected species, or species protected by any of the~~  
18 ~~following:~~

19 ~~(i) The federal Endangered Species Act of 1973 (16 U.S.C. Sec.~~  
20 ~~1531 et seq.).~~

21 ~~(ii) The California Endangered Species Act (Chapter 1.5~~  
22 ~~(commencing with Section 2050) of Division 3 of the Fish and~~  
23 ~~Game Code).~~

24 ~~(iii) The Native Plant Protection Act (Chapter 10 (commencing~~  
25 ~~with Section 1900) of Division 2 of the Fish and Game Code).~~

26 ~~(K) Lands under conservation easement.~~

27 ~~(3)~~

28 ~~(4) The development of the project on the proposed parcel would~~  
29 ~~not require the demolition or alteration of any of the following~~  
30 ~~types of housing:~~

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

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

36 ~~(C) Housing occupied by tenants, as that term is defined in~~  
37 ~~subdivision (l) of Section 65918.50, within the seven years~~  
38 ~~preceding the date of the application, including housing that has~~  
39 ~~been demolished or that tenants have vacated before the application~~  
40 ~~for a development permit.~~

1 (D) A parcel or parcels on which an owner of residential real  
2 property has exercised their rights under Chapter 12.75  
3 (commencing with Section 7060) of Division 7 of Title 1 to  
4 withdraw accommodations from rent or lease within 15 years  
5 before the date that the development proponent submits an  
6 application pursuant to Section 65913.6.

7 ~~(4)~~

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

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

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

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

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

21 (B) If the project is a conversion of an existing structure, the  
22 conversion shall not require substantial exterior alteration. For the  
23 purposes of this subparagraph, a project requires “substantial  
24 exterior alteration” if the project would require either of the  
25 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 shall meet all  
31 objective zoning standards and objective design review standards  
32 that do not conflict with this section or Section 65913.6. If, on or  
33 after July 1, 2019, a local agency adopts an ordinance that  
34 eliminates zoning designations permissive to residential use or  
35 decreases residential zoning development capacity within an  
36 existing zoning district in which the development is located than  
37 what was authorized on July 1, 2019, then that development shall  
38 be deemed to be consistent with any applicable requirement of this  
39 section and Section 65913.6 if it complies with zoning designations

1 not in conflict with this section and Section 65913.6 that were  
2 authorized as of July 1, 2019.

3 (B) For purposes of this paragraph, “objective zoning standards”  
4 and “objective design review standards” means standards that  
5 involve no personal or subjective judgment by a public official  
6 and are uniformly verifiable by reference to an external and  
7 uniform benchmark or criterion available and knowable by both  
8 the development proponent and the public official before the  
9 development proponent submits an application pursuant to this  
10 section. These standards include, but are not limited to, height,  
11 setbacks, floor area ratio, and lot coverage. For purposes of this  
12 section and Section 65913.6, “objective zoning standard” does not  
13 include any limits related to residential density that would limit a  
14 development to fewer than four residential units per parcel.

15 (3) A local agency may require the neighborhood multifamily  
16 project to provide at least 0.5 parking spaces per unit.

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

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

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

23 SEC. 3. Section 65913.6 is added to the Government Code, to  
24 read:

25 65913.6. (a) For purposes of this section, the definitions  
26 provided in Section 65913.5 shall apply.

27 (b) Except as provided in subdivision (g), a development  
28 proponent of a neighborhood multifamily project on an eligible  
29 parcel may submit an application for a development to be subject  
30 to a streamlined, ministerial approval process provided by this  
31 section and not be subject to a conditional use permit if the  
32 development meets the requirements of this section and Section  
33 65913.5.

34 (c) (1) If a local agency determines that a development  
35 submitted pursuant to this section is in conflict with any of the  
36 requirements specified in this section or Section 65913.5, it shall  
37 provide the development proponent written documentation of  
38 which requirement or requirements the development conflicts with,  
39 and an explanation for the reason or reasons the development  
40 conflicts with that requirement or requirements, within 60 days of

1 submission of the development to the local agency pursuant to this  
2 section.

3 (2) If the local agency fails to provide the required  
4 documentation pursuant to paragraph (1), the development shall  
5 be deemed to satisfy the requirements of this section and Section  
6 65913.5.

7 (d) Any design review or public oversight of the development  
8 may be conducted by the local agency’s planning commission or  
9 any equivalent board or commission responsible for review and  
10 approval of development projects, or the city council or board of  
11 supervisors, as appropriate. That design review or public oversight  
12 shall be objective and be strictly focused on assessing compliance  
13 with criteria required for streamlined projects, as well as any  
14 reasonable objective design standards published and adopted by  
15 ordinance or resolution by a local agency before submission of a  
16 development application, and shall be broadly applicable to  
17 development within the local agency. That design review or public  
18 oversight shall be completed within 90 days of submission of the  
19 development to the local agency pursuant to this section and shall  
20 not in any way inhibit, chill, or preclude the ministerial approval  
21 provided by this section or its effect, as applicable.

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

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

36 (2) If a local agency approves a development pursuant to this  
37 section, that approval shall remain valid for three years from the  
38 date of the final action establishing that approval and shall remain  
39 valid thereafter for a project so long as vertical construction of the  
40 development has begun and is in progress. Additionally, the



1 development proponent may request, and the local agency shall  
2 have discretion to grant, an additional one-year extension to the  
3 original three-year period. The local agency’s action and discretion  
4 in determining whether to grant the foregoing extension shall be  
5 limited to considerations and process set forth in this section.

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

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

24 (i) This section shall not affect a development proponent’s  
25 ability to use any alternative streamlined by right permit processing  
26 adopted by a local agency, including the provisions of subdivision  
27 (i) of Section 65583.2 or 65913.4.

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

30  
31 CHAPTER 4.35. EQUITABLE COMMUNITIES INCENTIVES

32  
33 65918.50. For purposes of this chapter:

34 (a) “Development proponent” means an applicant who submits  
35 an application for an equitable communities incentive pursuant to  
36 this chapter.

37 (b) “Eligible applicant” means a development proponent ~~who~~  
38 *receives whose development project meets the requirements of this*  
39 *chapter to receive an equitable communities incentive.*

40 (c) “FAR” means floor area ratio.

- 1 (d) “High-quality bus corridor” means a corridor with fixed  
2 route bus service that meets all of the following criteria:
- 3 (1) It has average service intervals for each line and in each  
4 direction of no more than 10 minutes during the three peak hours  
5 between 6 a.m. to 10 a.m., inclusive, and the three peak hours  
6 between 3 p.m. to 7 p.m., inclusive, on Monday through Friday.
- 7 (2) It has average service intervals for each line and in each  
8 direction of no more than 20 minutes during the hours of 6 a.m.  
9 to 10 p.m., inclusive, on Monday through Friday.
- 10 (3) It has average service intervals for each line and in each  
11 direction of no more than 30 minutes during the hours of 8 a.m.  
12 to 10 p.m., inclusive, on Saturday and Sunday.
- 13 (4) It has met the criteria specified in paragraphs (1) to (3),  
14 inclusive, for the five years preceding the date that a development  
15 proponent submits an application for approval of a residential  
16 development.
- 17 (e) (1) “Jobs-rich area” means an area identified by the  
18 Department of Housing and Community Development in  
19 consultation with the Office of Planning and Research that is high  
20 opportunity and either is jobs rich or would enable shorter commute  
21 distances based on whether, in a regional analysis, the tract meets  
22 both of the following:
- 23 (A) The tract is high opportunity, meaning its characteristics  
24 are associated with positive educational and economic outcomes  
25 for households of all income levels residing in the tract.
- 26 (B) The tract meets either of the following criteria:
- 27 (i) New housing sited in the tract would enable residents to live  
28 near more jobs than is typical for tracts in the region.
- 29 (ii) New housing sited in the tract would enable shorter commute  
30 distances for residents, relative to existing commute patterns and  
31 jobs-housing fit.
- 32 (2) The Department of Housing and Community Development  
33 shall, commencing on January 1, ~~2020~~, 2021, publish and update,  
34 every five years thereafter, a map of the state showing the areas  
35 identified by the department as “jobs-rich areas.”
- 36 (f) “Job-rich housing project” means a residential development  
37 within a jobs-rich area. A residential development shall be deemed  
38 to be within a jobs-rich area if both of the following apply:
- 39 (1) All parcels within the project have no more than 25 percent  
40 of their area outside of the jobs-rich area.

1 (2) No more than 10 percent of residential units or 100 units,  
2 whichever is less, of the development are outside of the jobs-rich  
3 area.

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

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

9 (i) “Potentially sensitive community” means any of the  
10 following:

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

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

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

18 (4) It is the intent of the Legislature to consider ~~at~~ both of the  
19 following:

20 (A) Identifying additional communities as potentially sensitive  
21 communities in inland areas, areas experiencing rapid change in  
22 housing cost, and other areas based on objective measures of  
23 community sensitivity.

24 (B) Application of the process for determining sensitive  
25 communities established in subdivision (d) of Section 65918.55  
26 to the San Francisco Bay area.

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

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

31 (1) Except as provided in paragraph (2), an area identified  
32 pursuant to subdivision ~~(d)~~ (b) of Section ~~65918.55~~: 65918.58.

33 (2) In the Counties of Alameda, Contra Costa, Marin, Napa,  
34 Santa Clara, San Francisco, San Mateo, Solano, and Sonoma, areas  
35 designated by the Metropolitan Transportation Commission on  
36 December 19, 2018, as the intersection of disadvantaged and  
37 vulnerable communities as defined by the Metropolitan  
38 Transportation Commission and the San Francisco Bay  
39 Conservation and Development Commission, which identification

1 of a sensitive community shall be updated at least every five years  
2 by the Department of Housing and Community Development.

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

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

8 (2) A single-room occupancy unit.

9 (3) An accessory dwelling unit that is not subject to, or does  
10 not have a valid permit in accordance with, an ordinance adopted  
11 by a local agency pursuant to Section 65852.2.

12 (4) A residential motel.

13 (5) A mobilehome park, as governed under the Mobilehome  
14 Residency Law (Chapter 2.5 (commencing with Section 798) of  
15 Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational  
16 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with  
17 Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code),  
18 the Mobilehome Parks Act (Part 2.1 (commencing with Section  
19 18200) of Division 13 of the Health and Safety Code), or the  
20 Special Occupancy Parks Act (Part 2.3 (commencing with Section  
21 18860) of Division 13 of the Health and Safety Code).

22 (6) Any other type of residential property that is not owned by  
23 the person or a member of the person’s household, for which the  
24 person or a member of the person’s household provides payments  
25 on a regular schedule in exchange for the right to occupy the  
26 residential property.

27 (m) “Transit-rich housing project” means a residential  
28 development, the parcels of which are all within a one-half mile  
29 radius of a major transit stop or a one-quarter mile radius of a stop  
30 on a high-quality bus corridor. A project shall be deemed to be  
31 within the radius if both of the following apply:

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

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

1 65918.51. ~~A~~(a) *Except as provided in subdivision (b) or*  
2 *Section 65918.58, on and after January 1, 2023, a local*  
3 *government shall, upon request of a development proponent, grant*  
4 *an equitable communities incentive, as specified in*~~Section~~  
5 ~~65918.53, Sections 65918.54 and 65918.55, when the development~~  
6 *proponent seeks and agrees to construct a multifamily residential*  
7 *development that satisfies the requirements specified in*~~Section~~  
8 ~~65918.52. Sections 65918.52 and 65918.53, and, if applicable,~~  
9 *Sections 65918.54 and 65918.55.*

10 (b) *A local government shall not be required to grant an*  
11 *equitable communities incentive pursuant to subdivision (a) if the*  
12 *local government has a local flexibility plan that has been reviewed*  
13 *and certified by the Department of Housing and Community*  
14 *Development pursuant to Section 65918.59.*

15 65918.52. ~~In order to be eligible for an equitable communities~~  
16 ~~incentive pursuant to this chapter, a~~ *A residential development*  
17 ~~shall meet~~ *is not eligible for an equitable communities incentive*  
18 *pursuant to this chapter unless the residential development meets*  
19 *all of the following criteria:*

20 (a) *The residential development is either a job-rich housing*  
21 *project or transit-rich housing project.*

22 (b) *The residential development is located on a site that meets*  
23 *the following requirements:*

24 (1) *At the time of application, the site is zoned to allow housing*  
25 *as an underlying use in the zone, including, but not limited to, a*  
26 *residential, mixed-use, or commercial zone, as defined and allowed*  
27 *by the local government.*

28 (2) *If the residential development is located within a coastal*  
29 *zone, as defined in Division 20 (commencing with Section 30000)*  
30 *of the Public Resources Code, the site*~~satisfies the requirements~~  
31 ~~specified in paragraph (2) of subdivision (a) of Section 65913.4.~~  
32 *meets the following conditions:*

33 (A) *The site satisfies the requirements specified in paragraph*  
34 *(2) of subdivision (a) of Section 65913.4.*

35 (B) *The site is located in a city that has a population equal to*  
36 *or greater than 50,000, based on the most recent United States*  
37 *Census Bureau data.*

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

39 (A) ~~A coastal zone, as defined in Division 20 (commencing~~  
40 ~~with Section 30000) of the Public Resources Code, if the site is~~

1 also located in a city that has a population of less than 50,000,  
2 based on the most recent United States Census Bureau data.

3 (B)

4 (A) A very high fire hazard severity zone, as determined by the  
5 Department of Forestry and Fire Protection pursuant to Section  
6 51178, or within a very high fire hazard severity zone as indicated  
7 on maps adopted by the Department of Forestry and Fire Protection  
8 pursuant to Section 4202 of the Public Resources Code. A parcel  
9 is not ineligible within the meaning of this paragraph if it is either  
10 of the following:

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

13 (ii) A site that has adopted fire hazard mitigation measures  
14 pursuant to existing building standards or state fire mitigation  
15 measures applicable to the development.

16 (C)

17 (B) A parcel for which either of the following apply:

18 (i) The parcel is a contributing parcel within a historic district  
19 established by an ordinance of the local government that was in  
20 effect as of December 31, 2010.

21 (ii) The parcel includes a structure that was listed on a state or  
22 federal register of historic resources before the date that the  
23 development proponent first submits an application for an equitable  
24 communities incentive pursuant to this chapter.

25 (e) ~~If the residential development is located within a county that  
26 has a population equal to or less than 600,000, based on the most  
27 recent United States Census Bureau data, 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 special flood hazard area subject to inundation by the 1  
36 percent annual chance flood (100-year flood) as determined by  
37 the Federal Emergency Management Agency in any official maps  
38 published by the Federal Emergency Management Agency. If a  
39 development proponent is able to satisfy all applicable federal  
40 qualifying criteria in order to provide that the site satisfies this~~

1 ~~subparagraph and is otherwise eligible for streamlined approval~~  
2 ~~under this section, a local government shall not deny the application~~  
3 ~~on the basis that the development proponent did not comply with~~  
4 ~~any additional permit requirement, standard, or action adopted by~~  
5 ~~that local government that is applicable to that site. A development~~  
6 ~~may be located on a site described in this subparagraph if either~~  
7 ~~of the following are met:~~

8 ~~(i) The site has been subject to a Letter of Map Revision~~  
9 ~~prepared by the Federal Emergency Management Agency and~~  
10 ~~issued to the local jurisdiction.~~

11 ~~(ii) The site meets Federal Emergency Management Agency~~  
12 ~~requirements necessary to meet minimum flood plain management~~  
13 ~~criteria of the National Flood Insurance Program pursuant to Part~~  
14 ~~59 (commencing with Section 59.1) and Part 60 (commencing~~  
15 ~~with Section 60.1) of Subchapter B of Chapter I of Title 44 of the~~  
16 ~~Code of Federal Regulations.~~

17 ~~(3) The residential development has a minimum density of 30~~  
18 ~~dwelling units per acre in jurisdictions considered metropolitan,~~  
19 ~~as defined in subdivision (f) of Section 65583.2, or a minimum~~  
20 ~~density of 20 dwelling units per acre in jurisdictions considered~~  
21 ~~suburban, as defined in subdivision (e) of Section 65583.2.~~

22 ~~(4) The residential development is located within a one-half~~  
23 ~~mile radius of a major transit stop and within a city with a~~  
24 ~~population greater than 50,000.~~

25 ~~(d) (1) If the local government has adopted an inclusionary~~  
26 ~~housing ordinance requiring that the development include a certain~~  
27 ~~number of units affordable to households with incomes that do not~~  
28 ~~exceed the limits for moderate income, lower income, very low~~  
29 ~~income, or extremely low income specified in Sections 50079.5,~~  
30 ~~50093, 50105, and 50106 of the Health and Safety Code, and that~~  
31 ~~ordinance requires that a new development include levels of~~  
32 ~~affordable housing in excess of the requirements specified in~~  
33 ~~paragraph (2), the residential development complies with that~~  
34 ~~ordinance. The ordinance may provide alternative means of~~  
35 ~~compliance that may include, but are not limited to, in-lieu fees,~~  
36 ~~land dedication, offsite construction, or acquisition and~~  
37 ~~rehabilitation of existing units.~~

38 ~~(2) (A) If the local government has not adopted an inclusionary~~  
39 ~~housing ordinance, as described in paragraph (1), the residential~~  
40 ~~development includes an affordable housing contribution for~~

1 households with incomes that do not exceed the limits for  
2 extremely low income, very low income, and low income specified  
3 in Sections 50093, 50105, and 50106 of the Health and Safety  
4 Code.

5 (B) For purposes of this paragraph, the residential development  
6 is subject to one of the following, as applicable:

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

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

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

14 (I) Make a comparable affordability contribution toward housing  
15 offsite that is affordable to lower income households, pursuant to  
16 subparagraph (C).

17 (II) Include units on the site of the project that are affordable  
18 to extremely low income, very low income, or lower income  
19 households, as defined in Sections 50079.5, 50105, and 50106 of  
20 the Health and Safety Code, as follows:

21		
22	Project Size	Inclusionary Requirement
23	21–200 units	15% lower income; or
24		8% very low income; or
25		6% extremely low income
26	201–350 units	17% lower income; or
27		10% very low income; or
28		8% extremely low income
29	351 or more units	25% lower income; or
30		15% very low income; or
31		11% extremely low income

32  
33 (C) (i) The development proponent of a project that qualifies  
34 pursuant to clause (ii) or subclause (I) of clause (iii) of  
35 subparagraph (B) may make a comparable affordability  
36 contribution toward housing offsite that is affordable to lower  
37 income households, pursuant to this subparagraph.

38 (ii) For the purposes of this subparagraph, “comparable  
39 affordability contribution” means either a dedication of land or  
40 direct in-lieu fee payment to a housing provider that proposes to



1 build a residential development in which 100 percent of the units,  
2 excluding manager’s units, are sold or rented at affordable housing  
3 cost, as defined in Section 50052.5 of the Health and Safety Code,  
4 or affordable rent, as defined in Section 50053 of the Health and  
5 Safety Code, subject to all of the following conditions:

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

8 ~~(II) The site, and if applicable, the dedicated land, is eligible~~  
9 ~~for an equitable communities incentive.~~

10 ~~(III) The residential development that receives a dedication of~~  
11 ~~land or in-lieu fee payment pursuant to this paragraph provides~~  
12 ~~the same number of affordable units at the same income category,~~  
13 ~~which would have been required onsite for the qualifying project~~  
14 ~~pursuant to subclause (II) of clause (iii) of subparagraph (B) of~~  
15 ~~paragraph (2).~~

16 ~~(IV) The value of the dedicated land or in-lieu fee payment must~~  
17 ~~be at least equal to the capitalized value of the forgone revenue~~  
18 ~~that the development proponent would have incurred if the~~  
19 ~~qualifying project had provided the required number and type of~~  
20 ~~affordable units onsite.~~

21 ~~(V) If the qualifying project includes 21 or more units of~~  
22 ~~housing, the comparable affordability contribution is subject to a~~  
23 ~~recorded covenant with the local jurisdiction. A copy of the~~  
24 ~~covenant shall be provided to the Department of Housing and~~  
25 ~~Community Development.~~

26 ~~(iii) For the purposes of this subparagraph, “qualifying project”~~  
27 ~~means a project that receives an equitable communities incentive~~  
28 ~~by providing a comparable affordability contribution.~~

29 ~~(iv) The qualifying development shall not be issued a certificate~~  
30 ~~of occupancy before the residential development receiving a~~  
31 ~~dedication of land or direct in-lieu fee payment pursuant to this~~  
32 ~~subparagraph receives a building permit.~~

33 ~~(D) Affordability of units pursuant to this paragraph shall be~~  
34 ~~restricted by deed for a period of 55 years for rental units or 45~~  
35 ~~years for units offered for sale.~~

36 ~~(e)~~

37 ~~(c) The site does not contain, or has not contained, either of the~~  
38 ~~following:~~

39 ~~(1) Housing occupied by tenants within the seven years~~  
40 ~~preceding the date of the application, including housing that has~~

1 been demolished or that tenants have vacated prior to the  
2 application for a development permit.

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

9 (f)

10 (d) The residential development complies with all applicable  
11 labor, construction employment, and wage standards otherwise  
12 required by law and any other generally applicable requirement  
13 regarding the approval of a development project, including, but  
14 not limited to, the local government’s conditional use or other  
15 discretionary permit approval process, the California  
16 Environmental Quality Act (Division 13 (commencing with Section  
17 21000) of the Public Resources Code), or a streamlined approval  
18 process that includes labor protections.

19 (g)

20 (e) The residential development complies with all other relevant  
21 standards, requirements, and prohibitions imposed by the local  
22 government regarding architectural design, restrictions on or  
23 oversight of demolition, impact fees, and community benefits  
24 agreements.

25 (h)

26 (f) The equitable communities incentive shall not be used to  
27 undermine the economic feasibility of delivering low-income  
28 housing under the state density bonus program or a local  
29 implementation of the state density bonus program, or any locally  
30 adopted program that puts conditions on new development  
31 applications on the basis of receiving a zone change or general  
32 plan amendment in exchange for benefits such as increased  
33 affordable housing, local hire, or payment of prevailing wages.

34 ~~65918.53. (a) (1) Any transit-rich or job-rich housing project~~  
35 ~~within a county that has a population greater than 600,000, based~~  
36 ~~on the most recent United States Census Bureau data, that meets~~  
37 ~~the criteria specified in Section 65918.52 shall receive, upon~~  
38 ~~request, an equitable communities incentive as follows:~~

1 65918.53. A residential development is not eligible for an  
2 equitable communities incentive pursuant to this chapter unless  
3 the residential development meets all of the following criteria:

4 (a) If the local government has adopted an inclusionary housing  
5 ordinance requiring that the development include a certain number  
6 of units affordable to households with incomes that do not exceed  
7 the limits for moderate income, lower income, very low income,  
8 or extremely low income specified in Sections 50079.5, 50093,  
9 50105, and 50106 of the Health and Safety Code, and that  
10 ordinance requires that a new development include levels of  
11 affordable housing in excess of the requirements specified in  
12 paragraph (2), the residential development complies with that  
13 ordinance. The ordinance may provide alternative means of  
14 compliance that may include, but are not limited to, in-lieu fees,  
15 land dedication, offsite construction, or acquisition and  
16 rehabilitation of existing units.

17 (b) (1) If the local government has not adopted an inclusionary  
18 housing ordinance, as described in subdivision (a), the residential  
19 development includes an affordable housing contribution for  
20 households with incomes that do not exceed the limits for extremely  
21 low income, very low income, and low income specified in Sections  
22 50093, 50105, and 50106 of the Health and Safety Code.

23 (2) For purposes of this subdivision, a residential development  
24 satisfies the affordable housing contribution requirement of this  
25 subdivision if the residential development is subject to one of the  
26 following, as applicable:

27 (A) If the project has 10 or fewer units, no affordability  
28 contribution is imposed.

29 (B) If the project has 11 to 20 residential units, the development  
30 proponent may pay an in-lieu fee to the local government for  
31 affordable housing, where feasible, pursuant to paragraph (3).

32 (C) If the project has more than 20 residential units, the  
33 development proponent shall do either of the following:

34 (i) Make a comparable affordability contribution toward housing  
35 offsite that is affordable to lower income households, pursuant to  
36 paragraph (3).

37 (ii) Include units on the site of the project that are affordable  
38 to extremely low income, very low income, or lower income  
39 households, as defined in Sections 50079.5, 50105, and 50106 of  
40 the Health and Safety Code, as follows:

1	<i>Project Size</i>	<i>Inclusionary Requirement</i>
2	<i>21–200 units</i>	<i>15% lower income; or</i>
3		<i>8% very low income; or</i>
4		<i>6% extremely low income</i>
5	<i>201–350 units</i>	<i>17% lower income; or</i>
6		<i>10% very low income; or</i>
7		<i>8% extremely low income</i>
8	<i>351 or more units</i>	<i>25% lower income; or</i>
9		<i>15% very low income; or</i>
10		<i>11% extremely low income</i>

11  
 12 (3) (A) *The development proponent of a project that qualifies*  
 13 *pursuant to subparagraph (B) of, or clause (i) of subparagraph*  
 14 *(C) of, paragraph (2) may make a comparable affordability*  
 15 *contribution toward housing offsite that is affordable to lower*  
 16 *income households, pursuant to this paragraph.*

17 (B) *For the purposes of this paragraph, “comparable*  
 18 *affordability contribution” means either a dedication of land or*  
 19 *direct in-lieu fee payment to a housing provider that proposes to*  
 20 *build a residential development in which 100 percent of the units,*  
 21 *excluding manager’s units, are sold or rented at affordable housing*  
 22 *cost, as defined in Section 50052.5 of the Health and Safety Code,*  
 23 *or affordable rent, as defined in Section 50053 of the Health and*  
 24 *Safety Code, subject to all of the following conditions:*

25 (i) *The site, and, if applicable, the dedicated land are located*  
 26 *within a one-half mile of the qualifying project.*

27 (ii) *The site, and, if applicable, the dedicated land are eligible*  
 28 *for an equitable communities incentive.*

29 (iii) *The residential development that receives a dedication of*  
 30 *land or in-lieu fee payment pursuant to this paragraph provides*  
 31 *the same number of affordable units at the same income category*  
 32 *that would have been required on the site of the qualifying project*  
 33 *pursuant to clause (ii) of subparagraph (C) of paragraph (2) for*  
 34 *the qualifying project to be eligible for an equitable community*  
 35 *incentive if the development proponent did not make a comparable*  
 36 *affordability contribution.*

37 (iv) *The value of the dedicated land or in-lieu fee payment is at*  
 38 *least equal to the capitalized value of the forgone revenue that the*  
 39 *development proponent would have incurred if the qualifying*

1 *project had provided the required number and type of affordable*  
2 *units onsite.*

3 *(v) If the qualifying project includes 21 or more units of housing,*  
4 *the comparable affordability contribution is subject to a recorded*  
5 *covenant with the local jurisdiction. A copy of the covenant shall*  
6 *be provided to the Department of Housing and Community*  
7 *Development.*

8 *(C) For the purposes of this paragraph, “qualifying project”*  
9 *means a project that receives an equitable communities incentive*  
10 *by providing a comparable affordability contribution.*

11 *(D) The qualifying development shall not be issued a certificate*  
12 *of occupancy before the residential development receiving a*  
13 *dedication of land or direct in-lieu fee payment pursuant to this*  
14 *paragraph receives a building permit.*

15 *(4) The affordability of units made affordable to meet the*  
16 *requirements of this subdivision shall be restricted by deed for a*  
17 *period of 55 years for rental units or 45 years for units offered for*  
18 *sale.*

19 *(c) Residents living within one-half mile of the development at*  
20 *time of application shall receive priority for the following:*

21 *(1) Forty percent of the affordable housing units in the*  
22 *development that are reserved for lower income households.*

23 *(2) Forty percent of the affordable housing units in the*  
24 *development that are reserved for very low income households.*

25 *(3) Forty percent of the affordable housing units in the*  
26 *development that are reserved for extremely low income*  
27 *households.*

28 *65918.54. An eligible applicant that proposes a residential*  
29 *development within a county that has a population greater than*  
30 *600,000, based on the most recent United States Census Bureau*  
31 *data, shall receive, upon request, an equitable communities*  
32 *incentive as follows:*

33 *(a) If the residential development is a transit-rich or job-rich*  
34 *housing project, the applicant shall receive both of the following:*

35 ~~(A)~~

36 *(1) A waiver from maximum controls on density.*

37 ~~(B)~~

38 *(2) A waiver from minimum automobile parking requirements*  
39 *greater than 0.5 automobile parking spots per unit.*

40 ~~(2) An eligible applicant proposing a~~

1 ~~(b) If the residential development within a county that has a~~  
2 ~~population greater than 600,000, based on the most recent United~~  
3 ~~States Census Bureau data, that is located within a one-half mile~~  
4 ~~radius, but outside a one-quarter mile radius, of a major transit~~  
5 ~~stop stop, the applicant shall receive, in addition to the incentives~~  
6 ~~specified in paragraph (1), subdivision (a), waivers from all of the~~  
7 ~~following:~~

- 8 ~~(A)~~
- 9 ~~(1) Maximum height requirements less than 45 feet.~~
- 10 ~~(B)~~
- 11 ~~(2) Any requirement governing the relationship between the~~  
12 ~~size of the parcel and the area that the building may occupy that~~  
13 ~~would restrict the structure to a FAR of less than 2.5.~~
- 14 ~~(C)~~
- 15 ~~(3) Notwithstanding subparagraph (B) of paragraph (1),~~  
16 ~~paragraph (2) of subdivision (a), any minimum automobile parking~~  
17 ~~requirement.~~

18 ~~(3) An eligible applicant proposing a~~  
19 ~~(c) If the residential development within a county that has a~~  
20 ~~population greater than 600,000, based on the most recent United~~  
21 ~~States Census Bureau data, that is located within a one-quarter~~  
22 ~~mile radius of a major transit stop stop, the applicant shall receive,~~  
23 ~~in addition to the incentives specified in paragraph (1), subdivision~~  
24 ~~(a), waivers from all of the following:~~

- 25 ~~(A)~~
- 26 ~~(1) Maximum height requirements less than 55 feet.~~
- 27 ~~(B)~~
- 28 ~~(2) Any requirement governing the relationship between the~~  
29 ~~size of the parcel and the area that the building may occupy that~~  
30 ~~would restrict the structure to a FAR of less than 3.25.~~
- 31 ~~(C)~~
- 32 ~~(3) Notwithstanding paragraph (2) of subdivision (a), any~~  
33 ~~minimum automobile parking requirement.~~

34 ~~(b) A residential development within a county that has a~~  
35 ~~population less than or equal to 600,000, based on the most recent~~  
36 ~~United States Census Bureau data, that meets the criteria specified~~  
37 ~~in Section 65918.52 shall receive, upon request, an equitable~~  
38 ~~communities incentive as follows:~~

- 39 ~~(1) A waiver from maximum controls on density, subject to~~  
40 ~~paragraph (3) of subdivision (c) of Section 65918.52.~~

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

7 ~~(3) Any requirement governing the relationship between the~~  
8 ~~size of the parcel and the area that the building may occupy that~~  
9 ~~would restrict the structure to a FAR of less than 0.6 times the~~  
10 ~~number of stories proposed for the project.~~

11 ~~(4) A waiver from minimum automobile parking requirements,~~  
12 ~~as follows:~~

13 ~~(A) If the residential development is located within a one-quarter~~  
14 ~~mile radius of a rail transit station in a city with a population of~~  
15 ~~greater than 100,000, based on the most recent United States~~  
16 ~~Census Bureau data, the residential development project shall~~  
17 ~~receive a waiver from any minimum automobile parking~~  
18 ~~requirement.~~

19 ~~(B) If the residential development does not meet the criteria~~  
20 ~~specified in clause (i), the residential development project shall~~  
21 ~~receive a waiver from minimum automobile parking requirements~~  
22 ~~of more than 0.5 parking spaces per unit.~~

23 ~~(e) Notwithstanding any other law, a project that qualifies for~~  
24 ~~an equitable communities incentive may also apply for a density~~  
25 ~~bonus, incentives or concessions, and parking ratios in accordance~~  
26 ~~with subdivision (b) of Section 65915. To calculate a density bonus~~  
27 ~~for a project that receives an equitable communities incentive, the~~  
28 ~~“otherwise maximum allowable gross residential density” as~~  
29 ~~described in subdivision (f) of Section 65915 shall be equal to the~~  
30 ~~proposed number of units in, or the proposed square footage of,~~  
31 ~~the residential development after applying the equitable~~  
32 ~~communities incentive received pursuant to this chapter. In no~~  
33 ~~case may a city, county, or city and county apply any development~~  
34 ~~standard that will have the effect of physically precluding the~~  
35 ~~construction of a development meeting the criteria of this chapter~~  
36 ~~and subdivision (b) of Section 65915 at the unit count or square~~  
37 ~~footage or with the concessions or incentives permitted by this~~  
38 ~~chapter and as may be increased under Section 65915 in accordance~~  
39 ~~with this subdivision, but no additional waivers or reductions of~~

1 development standards, as described in subdivision (e) of Section  
2 65915 shall be permitted.

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

11 ~~(e) An eligible applicant proposing a project that meets all of  
12 the requirements under Section 65913.4 may submit an application  
13 for streamlined, ministerial approval in accordance with that  
14 section.~~

15 ~~(f) The local government may modify or expand the terms of  
16 an equitable communities incentive provided pursuant to this  
17 chapter, provided that the equitable communities incentive is  
18 consistent with, and meets the minimum standards specified in,  
19 this chapter.~~

20 *65918.55. (a) An eligible applicant that proposes a residential  
21 development within a county that has a population less than or  
22 equal to 600,000, based on the most recent United States Census  
23 Bureau data, that meets all of the requirements in subdivision (b)  
24 shall receive, upon request, an equitable communities incentive  
25 as follows:*

26 *(1) A waiver from maximum controls on density.*

27 *(2) A waiver from maximum height limitations less than or equal  
28 to one story, or 15 feet, above the highest allowable height for  
29 mixed use or residential use. For purposes of this paragraph,  
30 "highest allowable height" means the tallest height, including  
31 heights that require conditional approval, allowable pursuant to  
32 zoning and any specific or area plan that covers the parcel.*

33 *(3) Any requirement governing the relationship between the  
34 size of the parcel and the area that the building may occupy that  
35 would restrict the structure to a FAR of less than 0.6 times the  
36 number of stories proposed for the project.*

37 *(4) A waiver from minimum automobile parking requirements,  
38 as follows:*

39 *(A) If the residential development is located within a one-quarter  
40 mile radius of a rail transit station in a city with a population of*



1 greater than 100,000, based on the most recent United States  
2 Census Bureau data, the residential development project shall  
3 receive a waiver from any minimum automobile parking  
4 requirement.

5 (B) If the residential development does not meet the criteria  
6 specified in subparagraph (A), the residential development project  
7 shall receive a waiver from minimum automobile parking  
8 requirements of more than 0.5 parking spaces per unit.

9 (b) To be eligible for an equitable communities incentive  
10 outlined in subdivision (a), a residential development shall meet  
11 all of the following requirements:

12 (1) The site satisfies the requirements specified in paragraph  
13 (2) of subdivision (a) of Section 65913.4.

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

15 (A) An architecturally or historically significant historic district,  
16 as defined in subdivision (h) of Section 5020.1 of the Public  
17 Resources Code.

18 (B) A special flood hazard area subject to inundation by the  
19 1-percent annual chance flood (100-year flood), as determined by  
20 the Federal Emergency Management Agency in any official maps  
21 published by the Federal Emergency Management Agency. If a  
22 development proponent is able to satisfy all applicable federal  
23 qualifying criteria in order to provide that the site satisfies this  
24 subparagraph and is otherwise eligible for an equitable  
25 communities incentive under this chapter, a local government shall  
26 not deny the application on the basis that the development  
27 proponent did not comply with any additional permit requirement,  
28 standard, or action adopted by that local government that is  
29 applicable to that site. A development may be located on a site  
30 described in this subparagraph if either of the following are met:

31 (i) The site has been subject to a Letter of Map Revision  
32 prepared by the Federal Emergency Management Agency and  
33 issued to the local jurisdiction.

34 (ii) The site meets Federal Emergency Management Agency  
35 requirements necessary to meet minimum flood plain management  
36 criteria of the National Flood Insurance Program pursuant to Part  
37 59 (commencing with Section 59.1) and Part 60 (commencing with  
38 Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code  
39 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 (c) *Notwithstanding any other law, a project that qualifies for*  
10 *an equitable communities incentive may also apply for a density*  
11 *bonus, incentives or concessions, and parking ratios in accordance*  
12 *with subdivision (b) of Section 65915. To calculate a density bonus*  
13 *for a project that receives an equitable communities incentive, the*  
14 *“otherwise maximum allowable gross residential density,” as*  
15 *described in subdivision (f) of Section 65915, shall be equal to the*  
16 *proposed number of units in, or the proposed square footage of,*  
17 *the residential development after applying the equitable*  
18 *communities incentive received pursuant to this chapter. In no*  
19 *case may a city, county, or city and county apply any development*  
20 *standard that will have the effect of physically precluding the*  
21 *construction of a development meeting the criteria of this chapter*  
22 *and subdivision (b) of Section 65915 at the unit count or square*  
23 *footage or with the concessions or incentives permitted by this*  
24 *chapter and as may be increased under Section 65915 in*  
25 *accordance with this subdivision, but no additional waivers or*  
26 *reductions of development standards, as described in subdivision*  
27 *(e) of Section 65915 shall be permitted.*

28 65918.56. (a) *The local government shall grant an incentive*  
29 *requested by an eligible applicant pursuant to this chapter unless*  
30 *the local government makes a written finding, based on substantial*  
31 *evidence, that the incentive would have a specific, adverse impact*  
32 *on any real property or historic district that is listed on a federal*  
33 *or state register of historical resources and for which there is no*  
34 *feasible method to satisfactorily mitigate or avoid the specific,*  
35 *adverse impact without rendering the development unaffordable.*

36 (b) *An eligible applicant proposing a project that meets all of*  
37 *the requirements under Section 65913.4 may submit an application*  
38 *for streamlined, ministerial approval in accordance with that*  
39 *section.*

1 (c) *The local government may modify or expand the terms of*  
2 *an equitable communities incentive provided pursuant to this*  
3 *chapter, provided that the equitable communities incentive is*  
4 *consistent with, and meets the minimum standards specified in,*  
5 *this chapter.*

6 ~~65918.54.~~

7 65918.57. The Legislature finds and declares that this chapter  
8 addresses a matter of statewide concern rather than a municipal  
9 affair as that term is used in Section 5 of Article XI of the  
10 California Constitution. Therefore, this chapter applies to all cities,  
11 including charter cities.

12 ~~65918.55.~~

13 65918.58. (a) On or before July 1, ~~2020~~, 2023, Sections  
14 65918.51 to 65918.54, inclusive, shall not apply to a potentially  
15 sensitive community. After July 1, ~~2020~~, 2023, Sections 65918.51  
16 to 65918.54, inclusive, shall apply in any potentially sensitive  
17 community that is not identified as a sensitive community pursuant  
18 to subdivision (b).

19 (b) On or before July 1, ~~2020~~, 2023, sensitive communities in  
20 each county shall be identified and mapped in accordance with the  
21 following:

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

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

36 (3) Each board of supervisors or council of governments shall  
37 adopt the sensitive communities map for the county, along with  
38 an explanation of the composition and function of the working  
39 group and the community process and methodology used to create  
40 the maps, at a public hearing held on or before July 1, ~~2020~~, 2023.

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

7 (1) The community plan is not in conflict with the goals of this  
8 chapter.

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

17 (3) The community plan includes provisions to protect  
18 vulnerable residents from displacement.

19 (4) The community plan promotes economic justice for workers  
20 and residents.

21 (5) The community plan was developed in partnership with at  
22 least one of the following:

23 (A) A nonprofit or community organization that focuses on  
24 organizing low-income residents in the sensitive community.

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

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

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

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

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

39 (d) Each city and each county shall make reasonable efforts to  
40 develop a community plan for any sensitive communities within

1 its jurisdiction. A community plan may address other locally  
2 identified priorities, provided they are not in conflict with the intent  
3 of this chapter or any other law. A city or county may designate a  
4 community plan adopted before July 1, ~~2020~~, 2023, as the plan  
5 that meets the requirements of this ~~paragraph~~, *subdivision*, provided  
6 that the plan meets all criteria in this section.

7 (e) Notwithstanding any other provision of this section, Sections  
8 65918.51 to 65918.54, inclusive, shall apply in any sensitive  
9 community if all of the following apply:

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

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

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

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

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

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

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

39 *65918.59. (a) On or before July 1, 2021, the Governor's Office*  
40 *of Planning and Research, in consultation with the Department*

1 of Housing and Community Development, shall develop and  
2 publish on its internet website rules, regulations, or guidelines for  
3 the submission and approval of a local flexibility plan. The rules,  
4 regulations, or guidelines shall include requirements that the local  
5 government demonstrate that the local flexibility plan would do  
6 the following:

7 (1) Affirmatively further fair housing, as that term is defined in  
8 Section 8899.50, to an extent as great or greater than if the local  
9 government were to grant equitable communities incentives in  
10 fulfillment of Section 65918.51.

11 (2) Achieve a standard of transportation efficiency as great or  
12 greater than if the local government were to grant equitable  
13 communities incentives in fulfillment of Section 65918.51.

14 (3) Increase overall feasible housing capacity for households  
15 of lower, moderate, and above moderate incomes, considering  
16 economic factors such as cost of likely construction types,  
17 affordable housing requirements, and the impact of local  
18 development fees.

19 (b) On or after July 1, 2021, a local government may submit a  
20 local flexibility plan for review and approval by the Department  
21 of Housing and Community Development pursuant to the rules,  
22 regulations, or guidelines adopted pursuant to subdivision (a).

23 (c) A local government submitting a local flexibility plan and  
24 the Department of Housing and Community Development shall  
25 process, review, and certify the local flexibility plan as  
26 expeditiously as possible after local community planning and  
27 stakeholder outreach is complete.

28 (d) Any rule, regulation, or guideline developed and published  
29 by the Governor's Office of Planning and Research pursuant to  
30 this section shall not be subject to Chapter 3.5 (commencing with  
31 Section 11340) of Part 1 of Division 3 of Title 2.

32 SEC. 5. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 a local agency or school district has the authority to levy service  
35 charges, fees, or assessments sufficient to pay for the program or  
36 level of service mandated by this act, within the meaning of Section  
37 17556 of the Government Code.

# SENATE BILL 50

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JANUARY 21, 2020 BRIEFING TO CITY COUNCIL

## WHAT IS GOOD ABOUT SB 50?

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- Higher density housing tends to be more affordable, and housing near transit and job centers give residents meaningful mobility options; and
- Legislation would significantly reduce time and cost associated with unpredictable municipal government approval processes.

## WHAT IT DOES IN SUMMARY

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- SB 50 would allow 4-unit “**Neighborhood Multifamily Project**” in existing residential structures or on vacant land; and
- Beginning in 2023, SB 50 would require local governments to provide a “**Equitable Communities Incentive**” to applicants that construct qualified residential developments in “jobs-rich” or “transit-rich” areas.

## NEIGHBORHOOD MULTI-FAMILY PROJECT

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- Allows up to 4 units on vacant/unoccupied land or in existing buildings that do not require substantial exterior modification (e.g. 15% increase in square footage max.);
- Maximum of 0.5 parking spaces per unit;
- Review limited to objective design standards;
- Requires ministerial approval process; and
- Approval valid for up to three years plus one year extension.



## EQUITABLE COMMUNITIES INCENTIVE

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- In “job-rich” or “transit-rich” areas, applicants may be granted exceptions to restrictions on:
  - density
  - parking
  - height restrictions
  - floor area ratios
- Requires ministerial staff approval of applications.

## REQUIREMENTS FOR APPLICANTS

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- Comply with inclusionary affordable housing requirement;
- Comply with objective standards; and
- SB 50 not intended to allow work-around of labor protections or City requirements for affordable housing.

## “JOB-RICH”

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- HCD required to produce maps of jobs-rich areas by January 1, 2021, and to update the maps every five years thereafter:
- Methodology:
  - High opportunity areas (positive educational and economic outcomes for residents);
  - Near more jobs than typical for region; and
  - Shorter commute relative to existing patterns.

## “TRANSIT-RICH”

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- Transit-rich housing project if located within  $\frac{1}{2}$  mile radius of a rail station, or  $\frac{1}{4}$  mile radius of a stop on a high-quality bus corridor;
- High-quality bus corridor is no less frequent than average of:
  - 10 minutes between 6 am to 10 am and 3 pm to 7 pm on weekdays;
  - 20 minutes from 6 am to 10 pm, on weekdays; and
  - 30 minutes between 8 am and 10 pm on weekends.



## “LOCAL FLEXIBILITY PLAN”

- Locally controlled alternative planning process;
- Must be completed before January 1, 2023:
  - Must increase overall feasible housing capacity;
  - Must affirmatively further fair housing;
  - Must demonstrate greater transportation efficiency;
  - Subject to State review and approval.

## “SENSITIVE COMMUNITIES”

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- ABAG will be required to map location of Sensitive Communities:
- Applicants must comply with locally-developed “Community Plan” in sensitive communities.

## POTENTIAL EXCEPTIONS TO SB 50

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- Implementation of SB 50 delayed in Sensitive Communities
- Cities less than 50,000 population in counties less than 600,000 population;
- Smaller cities in Coastal Zone;
- High fire hazard area;
- Site contains rental housing or determined to be a historic resource.

## SB 50 IN CONTEXT WITH EXISTING LAW

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- **Density Bonus laws** – requires planning code waivers and concessions for projects with specified affordable housing;
- **Changes to Housing Element Law** – new limits on allowable housing opportunity sites;
- **SB 35** –staff approval of qualified affordable housing projects; and
- **SB 330** – procedural protections for housing development applications and prohibits downzoning of property.

## ISSUES

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- Undermines state-mandated local land use plans and policies;
- Ministerial permits do not require public notice;
- Allows payment of fees in-lieu of actual development of affordable housing;
- Limits the City's ability to require well-designed residential projects;

## ISSUES ... CONTINUED

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- Does not address the cost of residential development (e.g., cost/availability of land, cost of construction, availability of financing, etc.);
- Assumes transit service will expand to serve mobility needs of new residents; and
- Timing of preparation of *Local Flexibility Plan* conflicts with Housing Element planning process.

## POTENTIAL IMPACTS IN ALBANY

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- Do not expect high volume of “**Neighborhood Multifamily Project**” applications because value per square foot of single-family home is equal or greater than small multi-family buildings; and
- “**Equitable Communities Incentive**” somewhat duplicative of Density Bonus and SB 35 requirements, and does not change underlying economic feasibility of development projects. Do not expect an increase in the number of potential development projects as a result of SB 50.

