

City of Albany



TO: ALBANY PLANNING & ZONING COMMISSION

FROM: Jean Eisberg, Consulting Planner

SUBJECT: Study Session on Implementation of Assembly Bill 2097 Regarding Off Street Parking Requirements

DATE: March 8, 2023

STAFF RECOMMENDATION

Staff recommends that the Planning & Zoning Commission hold a study session to:

- Receive a presentation on AB 2097 and how it could be codified within the City of Albany
- Provide feedback on the options recommended to support potential changes to parking regulations.

SUMMARY

This staff report provides an overview of AB 2097 (Attachment 1), which eliminates parking requirements for most uses when located within 1/2-mile of public transit. Based on Albany's current transit access, AB2097 is applicable to most of the city, except for the far western portion of the city—along the waterfront (west of Interstate 80), Eastshore frontage road, and west of Cleveland Ave.—and portions of the R-1 neighborhood and upper Solano in the eastern portion of the city. This report asks the Commission to consider codifying AB2097 within the City's Zoning Ordinance and presents two options for consideration:

1. Revise the Zoning Ordinance to implement AB2097 where it applies in Albany (i.e., within 1/2-mile of transit). This would remove minimum parking requirements for residential and most commercial uses in most, but not all, of the city.
2. Remove all minimum parking requirements, citywide. (Except for Waterfront zoning district, where amendments require voter approval.) This approach would simplify parking regulations, eliminate the existing waiver process and payment (which is currently in use) and remove the in-lieu fee payment option (which is not being used).

BACKGROUND

This section provides an overview of changes in State law and their implications for the City of Albany's parking regulations

Assembly Bill (AB) 2097

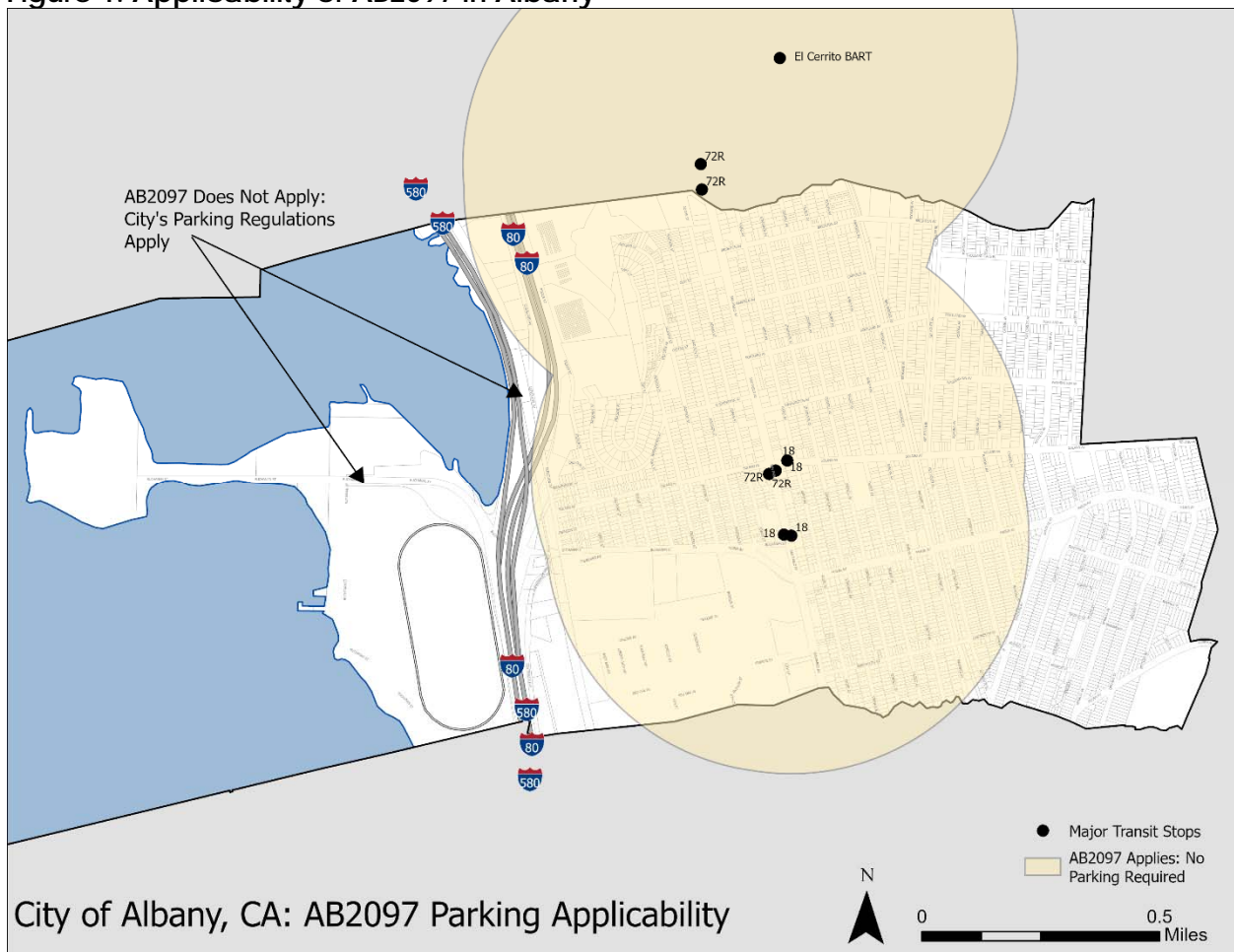
In September 2022, Governor Newsom signed into law Assembly Bill 2097, which removes minimum parking requirements for residential and commercial development when located within 1/2-mile of public transit.

Within Albany, this includes sites within ½-mile of the following transit stops:

- El Cerrito Plaza BART station
- AC Transit 72 Rapid (72R) bus rapid transit stations
- Intersection of two or more bus routes which have frequency of service interval of 15 minutes or less during peak commute periods (therefore intersections of Lines 18, 72, and 52)

Effectively, this covers most of the City of Albany, as shown in Figure 1.

Figure 1: Applicability of AB2097 in Albany



There are several exceptions to this law:

- Certain commercial uses—namely event centers, hotels, and motels—would still need to provide parking consistent with local standards.
- The City may still enforce ADA parking requirements and electric vehicle (EV) supply equipment that would otherwise apply
- The City may impose requirements to require spaces for carshare vehicles or to charge fees for parking (i.e., require unbundled parking), if parking is provided voluntarily.

Current Parking Regulations in Albany

Chapter 20.28 of the Albany Zoning Ordinance specifies a specific parking ratio for each use definition, including residential, commercial, and public uses (Attachment 2). This results in a two-page list of parking ratios that generally range from 1 space/200 square feet for restaurants to 1 space/800 square feet for business services.

In 2018, the City Council adopted a “blended” approach for Solano Avenue to respond to the fact that many people visiting Solano and arriving by car, park once and visit multiple business. The zoning changes simplified parking ratios in the Solano Commercial (SC) district into a general standard of 1 space/400 sq. ft. for commercial uses in the district and a higher standard 1 space/200 sq. ft. for restaurant uses, specifically. In 2022, with adoption of the San Pablo Avenue Specific Plan, the City Council extended these blended commercial parking ratios to the San Pablo Avenue Commercial (SPC) District. As a result, there are only a few places where the long list of parking ratios for individual commercial uses still apply (i.e., Cleveland Avenue, Eastshore Frontage).

Additionally, with adoption of the San Pablo Avenue Specific Plan, the City Council eliminated residential parking requirements within the Specific Plan area and applied a maximum parking requirement of 1 space per unit.

Current Parking Waiver Process in Albany

The Zoning Ordinance allows for exceptions to required parking through two mechanisms, detailed below. Each of these processes allow the City to collect fees to support the construction of parking facilities and/or support staff time on parking-related work, although only one process is currently in use.

First, Albany Municipal Code (AMC) Section 20.80.020.N.2 identifies a process for reducing or eliminating required parking for non-residential uses in the SC and SPC zoning districts. Applicants may pay a fee in-lieu of providing one or more required parking spaces. Fees collected are to be used by the City to “support activities in the SC and SPC zoning districts and to enhance parking facilities” according to the Zoning Ordinance. However, the City has never established a fee amount nor collected in-lieu

fees since it does not have a program with which to spend the funds to build parking facilities.

Second, AMC Section 20.80.040 specifies procedures to allow exceptions to required parking for both residential and commercial uses. For smaller parking waiver requests, applicants are required to pay a fee of \$1,454 for administrative review. Where the Zoning Ordinance requires City staff to conduct a parking survey, a larger fee of \$2,284 is required. Generally, the City processes approximately 20 waivers per year and therefore collects roughly \$20,000. These revenues go into the General Fund and are used to cover City staff time to process the parking exception requests. The parking exceptions are consistently granted; none have been denied in the past 10+ years.

DISCUSSION

Attachment #3 represents an in-depth analysis of why Albany has parking requirements, and how this new bill and other related State laws affect parking requirements in the city. It then offers options for the Commission's consideration to make changes to the City's requirements in response to State law and/or to achieve other objectives, including implementation of the goals and policies of the Albany General Plan and Climate Action Plan.

Options for the Commission's considerations include:

1. **Revise the Zoning Ordinance to implement AB2097 where it applies in Albany** (i.e., within ½-mile of transit). This would remove most minimum parking requirements for residential and most commercial uses in most, but not all, of the city, as shown in Figure 1. Minimum parking requirements would still apply in the western portion of the city, along Interstate 80 and on the waterfront, and in the eastern neighborhoods, including the R-1 district and upper Solano. These areas are located outside the ½-mile radius of major transit.
2. **Remove all minimum parking requirements, citywide.** This approach would simplify parking regulations, eliminate the waiver process and in-lieu fees described above. This is potentially a more equitable approach. Especially in light of State laws for ADUs that allow single-family homes to replace on-site parking with ADUs. Attachment #1 ultimately recommends this option, as a way to simplify requirements, allow the market to determine supply needs, and advance goals and policies for parking management and multimodal transportation. Staff recommend that the City still retain parking requirements in the Waterfront zoning district (i.e., Golden Gate Fields racetrack). Amendments to this district require voter approval, which is not contemplated at this time.

Notably, the City is not required to codify AB2097 in its Zoning Ordinance, nor implement either of these options. However, implementing AB2097 can have some advantages.

- Establish consistent standards between State law and the City's zoning regulations.

- Advance state goals and policies in Albany's General Plan and Climate Action and Adaptation Plan.
- Encourage investment in and use of alternative modes of transportation

On the other hand, reducing or eliminating parking can have some potential pitfalls. Mostly notably, finding on-street parking and spillover parking in neighborhoods. Future budgets and work plans could consider adoption of residential permit parking and related technologies, such as license plate readers, to manage on-street parking and prevent overcrowding. These benefits and drawbacks are discussed more fully in Attachment #1.

Finally, as noted above, the City currently collects parking exception fees to cover staff time for processing parking exceptions. These revenues would go away with the removal of parking requirements and the parking exception process. However, the City staff time spent to process these exceptions would also be eliminated, freeing up staff time for other purposes.

Adopted Plans Goals and Policies

The Albany General Plan and the Albany Climate Action and Adaptation Plan contains numerous goals and policies concerning parking and multimodal transportation. Please see Attachment #1 for a detailed list of these goals and policies, some of which can be advanced through implementation of AB2097, described herein, and future parking management programs.

Social Equity and Inclusion

As noted in Attachment #1, parking requirements have had the effect of providing free parking for motorists for most trips, whether to their residences or to local businesses. Until recently, bicyclists, pedestrians, and transit users were not afforded similar benefits. Notably, the City now has requirements for bicycle parking, and the San Pablo Avenue Specific Plan requires free transit passes for residents of new housing projects. These changes aim to improve options for residents who cannot afford to own vehicles or otherwise choose not to.

Reducing parking requirements can free up more space for housing and commercial development and reduce the overall costs of housing. If parking is not required or is reduced on the ground-floor, this can free up space for retail and reduce costs associated with construction of parking, especially for underground parking or concrete podiums. As noted in Attachment #1, parking spaces add about 17% to a unit's rent and 13% to a for-sale unit's costs compared to units without parking. This directly impacts carless households, which are often low-income households.

ENVIRONMENTAL REVIEW

No environmental review is required at this study session since no formal action is proposed. Parking is no longer an impact topic under the California Environmental Quality Act (CEQA).

NEXT STEPS

Following review and feedback by the Planning & Zoning Commission, consultants will prepare revised zoning standards for the Commission's consideration.

ATTACHMENTS

1. Assembly Bill 2097
2. City of Albany Municipal Code Section 20.28 Off-Street Parking Requirements
3. Siegman & Associates Technical Memorandum

Assembly Bill No. 2097

CHAPTER 459

An act to amend Section 65585 of, and to add Section 65863.2 to, the Government Code, relating to land use.

[Approved by Governor September 22, 2022. Filed with
Secretary of State September 22, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2097, Friedman. Residential, commercial, or other development types: parking requirements.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a land use element, and a conservation element. Existing law also authorizes the legislative body of a city or a county to adopt ordinances establishing requirements for parking, and permits variances to be granted from the parking requirements of a zoning ordinance for nonresidential development if the variance will be an incentive to the development and the variance will facilitate access to the development by patrons of public transit facilities.

This bill would prohibit a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, as defined, that is located within ½ mile of public transit, as defined. The bill, notwithstanding the above-described prohibition, would authorize a city, county, or city and county to impose or enforce minimum automobile parking requirements on a housing development project if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on the public agency's ability to meet its share of specified housing needs or existing residential or commercial parking within ½ mile of the housing development. The bill would create an exception from the above-described provision if the housing development project (1) dedicates a minimum of 20% of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities, (2) contains fewer than 20 housing units, or (3) is subject to parking reductions based on any other applicable law. The bill would prohibit these provisions from reducing, eliminating, or precluding the enforcement of any requirement imposed on a housing development project that is located within ½ mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons

with disabilities. By changing the duties of local planning officials, this bill would impose a state-mandated local program.

Existing law also requires the Department of Housing and Community Development to notify a city, county, or city and county, and authorizes the department to notify the office of the Attorney General, that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to the housing element does not substantially comply with specified provisions of the Planning and Zoning Law, or that the local government has taken action or failed to act in violation of specified provisions of law. Existing law authorizes the Attorney General to bring suit for a violation of those provisions.

This bill would add a violation of the minimum automobile parking requirements of residential, commercial, or other development projects, as described above, to the list of laws that, when violated, require the department to notify the jurisdiction and authorize the Attorney General to bring an action to enforce state law.

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

This bill would incorporate additional changes to Section 65585 of the Government Code proposed by AB 2011 and AB 2653 to be operative only if this bill and AB 2011 or AB 2653, or all 3 bills, are enacted and this bill is enacted last.

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.

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

SECTION 1. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior

to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to

implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915.)
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65863.2.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 1.1. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element

or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915).
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65863.2.
- (12) Chapter 4.1 (commencing with Section 65912.100).

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller

to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 1.2. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the

department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5).

(2) Section 65863.

(3) Chapter 4.3 (commencing with Section 65915).

- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65400.
- (12) Section 65863.2.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to

pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 1.3. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if

comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph

(1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915).
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65400.
- (12) Section 65863.2.
- (13) Chapter 4.1 (commencing with Section 65912.100)

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once

the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 2. Section 65863.2 is added to the Government Code, to read:

65863.2. (a) A public agency shall not impose or enforce any minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of public transit.

(b) Notwithstanding subdivision (a), a city, county, or city and county may impose or enforce minimum automobile parking requirements on a project that is located within one-half mile of public transit if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on any of the following:

(1) The city's, county's, or city and county's ability to meet its share of the regional housing need in accordance with Section 65584 for low- and very low income households.

(2) The city's, county's, or city and county's ability to meet any special housing needs for the elderly or persons with disabilities identified in the analysis required pursuant to paragraph (7) of subdivision (a) of Section 65583.

(3) Existing residential or commercial parking within one-half mile of the housing development project.

(c) For a housing development project, subdivision (b) shall not apply if the housing development project satisfies any of the following:

(1) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.

(2) The development contains fewer than 20 housing units.

(3) The development is subject to parking reductions based on the provisions of any other applicable law.

(d) Notwithstanding subdivision (a), an event center shall provide parking, as required by local ordinance, for employees and other workers.

(e) For purposes of this section:

(1) “Housing development project” means a housing development project as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(2) “Low- and very low income households” means the same as “lower income households” as defined in Section 50079.5 of the Health and Safety Code.

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

(4) “Public agency” means the state or any state agency, board, or commission, any city, county, city and county, including charter cities, or special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision.

(5) “Public transit” means a major transit stop as defined in Section 21155 of the Public Resources Code.

(6) “Project” does not include a project where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except where a portion of a housing development project is designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(f) This section shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development that is located within one-half mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this section did not apply.

(g) When a project provides parking voluntarily, a public agency may impose requirements on that voluntary parking to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking. A public agency may not require that voluntarily provided parking is provided to residents free of charge.

(h) (1) Subdivision (a) shall not apply to commercial parking requirements if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023, provided that all

of the required commercial parking is shared with the public. This subdivision shall apply to an existing contractual agreement that is amended after January 1, 2023, provided that the amendments do not increase commercial parking requirements.

(2) A project may voluntarily build additional parking that is not shared with the public.

(i) The Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions. Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.

SEC. 3. The Legislature finds and declares that to lower the cost of housing production by reducing unnecessary parking requirements is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act adding Section 65863.2 to the Government Code applies to all cities, including charter cities.

SEC. 4. (a) Section 1.1 of this bill incorporates amendments to Section 65585 of the Government Code proposed by both this bill and Assembly Bill 2011. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65585 of the Government Code, and (3) Assembly Bill 2653 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2011, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 65585 of the Government Code proposed by both this bill and Assembly Bill 2653. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65585 of the Government Code, (3) Assembly Bill 2011 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2653 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 65585 of the Government Code proposed by this bill, Assembly Bill 2011, and Assembly Bill 2653. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2023, (2) all three bills amend Section 65585 of the Government Code, and (3) this bill is enacted after Assembly Bill 2011 and Assembly Bill 2653, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments

sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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State of California

PUBLIC RESOURCES CODE

Section 21155

21155. (a) This chapter applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(b) For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

(Added by Stats. 2008, Ch. 728, Sec. 14. Effective January 1, 2009.)



State of California

PUBLIC RESOURCES CODE

Section 21064.3

21064.3. "Major transit stop" means a site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

(Amended by Stats. 2019, Ch. 631, Sec. 2. (AB 1560) Effective January 1, 2020.)

§ 20.28

OFF-STREET PARKING AND LOADING REGULATIONS**§ 20.28.010. Purpose. [Ord. No. 04-09; Ord. No. 2017-06 § 2]**

These regulations are intended to:

- A. Ensure that off-street parking facilities for vehicles and bicycles are provided for new land uses and for alterations and enlargements of existing land uses and structures in proportion to the need for such facilities created by each use.
- B. Ensure that the existing inventory of parking spaces serving commercial districts is not diminished by new uses and construction.
- C. Acknowledge the constraints posed by the existing state of development and the lack of available land area that characterize the City, and provide for equitable application of the parking space requirements.
- D. Ensure that off-street parking facilities are designed in a manner that will ensure efficiency, protect the public safety and minimize adverse impacts upon surrounding land uses.

§ 20.28.020. General Regulations. [Ord. No. 04-09; Ord. No. 2017-06 § 2; Ord. No. 2019-01 § 4]

A. Residential Uses.

- 1. Expansion of Dwelling Unit. When an existing dwelling unit is expanded without creating an additional dwelling unit, the requirement of subsection 20.28.030.A shall be met unless it is waived or reduced pursuant to subsection 20.28.040.A.1 or 2.
- 2. Addition of Dwelling Unit. When any dwelling unit is added to a residential site, the new dwelling unit shall meet the requirement of subsection 20.28.030.A. The number of existing off-street parking spaces which serve to meet the requirements for existing dwelling units on a site shall not be reduced when any new dwelling unit is added to the site, except as provided in subsections 20.28.040.A.3 and 4.

B. Nonresidential Uses. When any structure is constructed, enlarged, or increased in capacity, or when a change in use occurs, the requirements of this subsection shall be satisfied, except as specifically provided in subsection 20.28.040.B. For purposes of this subsection a change of use shall mean replacement of one activity with another activity that the City determines to be in a different category of parking space requirements, (e.g., a change in requirement from one (1) space per three hundred (300) square feet to one (1) space per two hundred (200) square feet.)

C. Unlisted Uses. Requirements for types of buildings or uses not specifically listed herein shall be determined by the Community Development Director based upon the requirements for comparable uses listed and on the particular characteristics of

the building or use.

- D. **Multiple Use.** When two (2) or more nonresidential uses are located in the same building and/or in common developments other than shopping centers, or when parking facilities for different buildings or uses are provided collectively, the parking requirements shall be the sum of the separate requirements for each use, except as provided in subsection 20.28.040.B.4 below. Special provisions for mixed residential and nonresidential facilities are stated in subsection 20.28.040.C below.
- E. **Access During Business Hours.** Required parking spaces that serve commercial uses and are intended for use by business clientele shall remain open and accessible during business hours.
- F. **Shopping Centers.** Where shared parking facilities are provided for two (2) or more commercial uses in a shopping center, the minimum requirement may be reduced to seventy-five (75%) percent of the sum of the requirements for the various uses computed separately, when the combined requirements total twenty (20) or more spaces. Refer to subsection 20.08.020 for the definition of shopping center.
- G. **Dedication to Parking.** All off-street parking spaces, carports, parking lots, parking garages and access drives required by this chapter shall be dedicated to the parking of motor vehicles and kept available for parking for the duration of the use requiring the parking. In the event that a change of use or other change of circumstances causes the existing parking spaces on a nonresidential site to be in excess of the minimum requirement for the use of the site, the Community Development Director may consider approval of an arrangement by which the excess spaces may meet requirements for other uses, through a minor use permit process.
- H. **Use of Required Yards.** No portion of any required front yard shall be used to meet off-street parking requirements, except as provided below in subsection 20.28.040.A.8.
- I. **Limitation on Paved Area of Front Yards.** Any paved area between the front property line and the front of a building shall be limited to a walkway for entry access, and a driveway not to exceed sixteen (16) feet in width, that forms a direct route from the street to a garage or other parking space deemed acceptable by the Community Development Director. The Planning and Zoning Commission may grant an exception to this limitation, based on unusual conditions of the site, such as topography, size, location or visibility. No parking of vehicles shall occur in any unpaved portion of a front yard.
- J. **Limitation on Repairs.** No repair work or servicing of vehicles shall be conducted in a required off-street parking space, except such minor work performed by the resident as is common to residential use.
- K. **Bicycles.** Sufficient bicycle storage space including outdoor bicycle racks and indoor storage where feasible, as determined by the Planning and Zoning Commission, shall be provided by new business establishments, new multi-family developments, residential mixed-use developments, and commercial mixed-use

developments in the City of Albany.

- L. Calculation of Requirements. Fractional space requirements shall be rounded to the nearest whole number (one-half (1/2) shall be rounded up).
- M. Signage. Signs related to off-street parking shall be pursuant to Section 20.32.
- N. Alternative Methods of Meeting Parking Requirements for Nonresidential Uses. Required off-street parking spaces normally will be provided on the site of the use being served, through the approval process required for such use. Alternatively, the off-street parking requirements as specified by this section for nonresidential uses may be fulfilled by the following means:
 - 1. Off-Site: Required off-street parking spaces may be provided in a different location from the location of the use being served, provided that parking for customers and visitors is located within seven hundred (700) feet and parking for employees is within one thousand (1,000) feet, with distances measured from the near corner of the parking facility to the main public entrance of the use served via the shortest pedestrian route. Such arrangements may be approved through an administrative zoning permit process, unless a use permit is required for the basic use, in which case consideration of off-site parking shall be made part of the use permit consideration.
 - 2. In-Lieu Fee: The City Council may establish by ordinance a method by which payment of a fee may be accepted by the City in fulfillment of the requirement for one (1) or more parking spaces. Fees thus collected would be used by the City to increase the supply of parking available to support activities in the SC and SPC zoning districts and to enhance parking facilities.
 - 3. Assessment District: The City Council may initiate, pursuant to appropriate State statutes, the formation of one (1) or more special districts for the purpose of providing public off-street parking. Participation in such a district by property or business owners could provide a means of fulfilling all or part of the parking requirements for a particular site. Fees paid in lieu of providing parking spaces could be used by the City in conjunction with an assessment district.
- O. Car-Share Service. Where feasible, car share service may be established for public use. A car-share service is a mobility enhancement service that provides an integrated citywide network of neighborhood-based motor vehicles available only to members by reservation on an hourly basis, or in smaller intervals, and at variable rates. Car-share vehicles must be located at unstaffed, self-service locations (other than any incidental garage valet service), and generally be available for pickup by members twenty-four (24) hours per day. A car-share service shall assume responsibility for maintaining car-share vehicles.
- P. Unbundled Parking. Unbundled parking may be incorporated as part of a multi-family or residential mixed-use development. Unbundled parking is a parking strategy in which parking spaces are rented or sold separately, rather than

automatically included with the rent or purchase price of a residential or commercial unit. Tenant or owners may purchase only as much parking as they need and are given the opportunity to save cost and space by utilizing fewer parking stalls.

- Q. Electric Vehicles. The City of Albany encourages electric vehicle use and the establishment of convenient and cost-effective electric vehicle infrastructure where appropriate. Electric vehicle infrastructure shall not conflict with or create hazardous situations in the public right-of-way.
 - 1. Electric Vehicle (EV) is any motor vehicle registered to operate on California public roadways and operates, either partially or exclusively, on electrical energy from the grid or an off-board source that is stored on-board for motive purpose. "Electric vehicle" includes but is not limited to: a battery electric vehicle, a plug-in hybrid electric vehicle, a neighborhood electric vehicle, and an electric motorcycle.
 - 2. Electric Vehicle Charging Station (EVCS) means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with Level 1 or Level 2 charging equipment is permitted outright as an accessory use to any principal use.
- R. Transportation Demand Management Plan. The City of Albany encourages Transportation Demand Management Plans as part of existing and new multi-family residential development, residential mixed-use development, affordable dwellings and new commercial and commercial mixed-use developments. Transportation Demand Management (TDM) is an important strategy to increase access to alternative transportation systems, improve mobility, and minimize negative impacts associated with vehicular travel. A TDM plan describes policies, programs, or resources that support and incentivize sustainable travel choices such as walking, biking, taking transit, or carpooling.

§ 20.28.030. Parking Space Requirements. [Ord. No. 04-09; Ord. No. 2014-02 § 5; Ord. No. 2017-06 § 2; Ord. No. 2019-01 § 4]

Off-street parking spaces shall be provided according to the following schedule, unless reductions or exceptions are made according to Subsection 20.28.040 below.

A. Residential Uses. [Amended 6-1-2020 by Ord. No. 2020-04]

Table 4. Residential Parking Requirements (20.28.030)	
Land Use	Parking Requirement
Single-family dwelling ¹	2 spaces per dwelling unit
Two-family dwelling ²	1.5 spaces per dwelling unit
Multifamily dwelling ³	1 space per unit

Table 4. Residential Parking Requirements (20.28.030)	
Land Use	Parking Requirement
Live/work space	1 space per unit
Senior citizen housing development	0.5 space per unit
Residential mixed-use development ⁴	1 space per unit
Affordable dwelling unit ⁵	0.5 space per unit
Shared housing	0.5 space per bedroom
Bed-and-breakfast	See Subsection 20.20.010.C.
Large family day-care home	See Subsection 20.20.020.B.2.c.
Residential care home (more than 6 residents)	See 20.20.020.C.2.c.
Accessory dwelling unit	No off-street parking required
Transitional housing	1 space per 2 employees
Supportive housing	1 space per 2 employees

Notes, Table 4

1. Requirements may be modified or reduced through Planning and Zoning Commission review subject to Subsection 20.28.0040.A.2, Additions Where No New Dwelling Units are Created, or Subsection 20.28.040.A.8, Parking in Required Yards.
2. Requirement may be reduced through conditional use permit review pursuant to Subsection 20.28.040.A.3, Two-Family Dwellings.
3. Requirement may be reduced through conditional use permit review pursuant to Subsection 20.28.040.A.4, Multi-Family Dwelling.
4. Requirement may be reduced through conditional use permit review pursuant to Subsection 20.28.040.A.5, Residential Mixed-Use Development.
5. Requirement may be reduced through conditional use permit review pursuant to Subsection 20.28.040.A.6, Affordable Dwelling Unit.

B. Nonresidential Uses.

Key to schedule:

1/100 means one parking space per 100 square feet of gross floor area, except where specification is made for outdoor area.

1/200 means one parking space per 200)square feet, etc.

UP means parking requirement for a particular use will be determined through a use permit procedure.

Table 5. Nonresidential Parking Requirements (20.28.030)	
Land Use	Parking Requirement See 20.28.040.B and C for exceptions.
Public and Quasi-Public	
Community Assembly	1/100
Clubs and Lodges	1/100
Cultural Activities/Institutions	1/400
Day Care Center (Non-Family)	1 space per 6 individuals under care
Emergency Shelter	See Section 20.40.070B.4.
Hospitals and Clinics	Hospital: UP Clinic: 1/300
Park and Recreation Facilities	UP
Public Administration Offices/Facilities	1/400
Public Maintenance Facilities	1/1,000, including building and open use areas
Religious Institutions	1/100
Schools, public or private	Elementary/Middle: 1 space per employee High: same plus 1 space per 10 students
Social Service Facilities	1/300
U.S. Post Office	1/300
Buildings or yards supporting utilities: Major, Minor, Underground.	UP
Commercial¹	
Adult entertainment establishments	1/400
Animal Sales and Services:	
a) Animal Boarding	1/500
b) Animal Grooming	1/400
c) Animal Hospitals	1/300
d) Animal Sales	1/400
Automobile/Vehicle Sales and Services:	
a) Automobile/vehicle/ equipment sales and/or rental (excluding inventory)	Sales: 1/1,000 including building and open use areas Rental: 1/400 (in building)

Table 5. Nonresidential Parking Requirements (20.28.030)	
Land Use	Parking Requirement See 20.28.040.B and C for exceptions.
b) Automobile service stations (includes fueling stations)	UP
Commercial:	
c) Automobile/vehicle/ equipment repair	1/300
d) Automobile washing	UP
Bars	1/200, or if live entertainment, 1/100
Building materials sales and service:	
a) Within an enclosed building plus	1/400
b) Open storage area	1/800
Commercial recreation/entertainment	Theatre: 1 space per 4 seats Other: UP
Commercial recreation/entertainment in the Waterfront District	Theatre: 1 space per 4 seats Other: UP
Communication facilities	1/500
Construction services (contractors)	1/1,000, including building and open use areas
Dry cleaner (retail)	1/400
Financial institutions	1/300
Funeral and internment services	1/100
Gyms and health clubs	1/300
Hotels and motels	1 space per bedroom; other uses by UP
Laboratory, limited	1/500
Laundry, large scale	1/800
Laundry, self-service	1/400
Offices, professional and other	1/200 medical; 1/400 all other
Marinas and boat launching ramps	UP
Parking lots, commercial	-
Pawn shops	1/400
Printing (retail)	1/400
Printing (industrial)	1/800

Table 5. Nonresidential Parking Requirements (20.28.030)	
Land Use	Parking Requirement See 20.28.040.B and C for exceptions.
Repair Services (non-auto)	1/400
Research and Development (commercial)	1/400
Research and Development (educational)	1/400
Restaurant	1/200, General
a) With live entertainment	1/100
b.1) With take-out (walk-up)	1/100
b.2) With take-out (drive through)	1/100
Retail, food and beverage sales	1/400
Retail, nurseries and garden supplies:	1/400
Within an enclosed bldg: Plus	1/800
Open sales or growing area:	
Retail sales:	
a) Neighborhood retail	1/400
b) Community retail	1/400
c) Regional retail	1/400
Services, ambulance	1/500
Services, business	1/800
Services, catering	1/500
Services, instructional	1/300, general 1/200, business school
Services, massage	1/400
Services, personal	1/400
Telecommunication facilities	1/1,000
Waterfront and waterfront sports- related commercial sales and service	1/400
Industrial	
Industry, limited	1/800
Industry, general	1/1,000
Truck terminal	UP

Table 5. Nonresidential Parking Requirements (20.28.030)	
Land Use	Parking Requirement See 20.28.040.B and C for exceptions.
Warehousing and storage:	
a) Within an enclosed building Plus	1/1,000
b) Outdoor use area	1/1,000
Wholesaling and distribution	1/1,000

Notes:

¹See Section 20.28.040.B.7 for parking requirements in the SC District.

C. Bicycle Parking.

1. Applicability. New commercial construction, mixed-use construction, multi-family properties, commercial properties where there is a change of use, and remodeled commercial or mixed-use building shall provide bicycle parking facilities.
2. General Requirements.
 - a. Bicycle parking facilities shall be provided in a convenient and well-lit area. Unprotected bicycle parking should be located in an area of high pedestrian foot traffic so as to discourage theft.
 - b. Bicycle racks in the Solano Commercial (SC) and San Pablo Commercial (SPC) Zoning Districts may be located within the public right-of-way subject to selection of rack design, review of location, and approval of an encroachment permit. Safe and convenient means of ingress and egress for vehicles shall be provided and an unobstructed sidewalk clearance of four (4) feet is maintained for pedestrians at all times.
 - c. Bicycle parking facilities shall be located on or within a concrete or similar surface and designed to support bicycles in a stable position without damage to wheels, frames, or other components.
 - d. Bicycle racks shall be securely anchored to the surface to prevent easy removal and shall be of sufficient strength to resist vandalism and theft.
 - e. New businesses with more than fifty (50) employees shall provide end of trip facilities, including showers, lockers, and bicycle parking facilities.
3. Bicycle Parking Requirements by Use.

Table 6. Bicycle Parking Requirements (20.28.030)	
Land Use	Parking Requirement
Residential	
Residential Mixed-Use Development ¹	1 exterior bicycle rack space per 1,500 sq. ft. of commercial floor area 1 protected bicycle space per residential unit
Multi-Family Dwelling (Apartment and condominium buildings only) ¹	1 protected bicycle space per unit
Commercial	
Services, personal	1 bicycle rack per 1,500 sq. ft. of floor area
Offices, professional and other	1 bicycle rack per 1,500 sq. ft. of floor area
Restaurant	1 bicycle rack per 1,500 sq. ft. of floor area
Retail sales	
a) Neighborhood retail	1 bicycle rack per 1,500 sq. ft. of floor area
b) Community retail	1 bicycle rack per 1,500 sq. ft. of floor area
c) Regional retail	1 bicycle rack per 1,500 sq. ft. of floor area

Notes:

¹For every ten (10) bicycle spaces provided on site, the Planning and Zoning Commission may waive one (1) required off-street parking space.

4. Bicycle Parking Definitions.
 - a. Bicycle Parking Facility A space exclusively for the storage of bicycles. This includes bicycle racks and bicycle storage.
 - b. Bicycle Rack A stationary fixture with a base that anchors for surface mounting and must be able to accommodate at least two (2) bicycles upright by rack frame. This includes exterior bicycle parking.
 - c. Bicycle Parking Facility Location Physical space that may be located on public right or private property that is used for the placement and installation of a bicycle parking facility.
 - d. Bicycle Storage (Protected) Individually enclosed and secure space for a

bicycle. This includes bicycle lockers, electronic lockers, and interior bicycle parking.

- e. Public Bicycle Share Program A program which offers bicycles available for public use to individuals on a short-term basis. Bicycles and related kiosks are located in public areas and available to any member of the public.
- f. Private Bicycle Share Program A program which offers bicycles available for private use as part of a business, residential mixed-use development, commercial mixed-use development, or multiple family dwelling to individuals on a short-term basis. Bicycles and related storage are located in private areas and available to individuals who are part of the business or reside on site.
- g. Long-Term Bicycle Parking. Long-term bicycle parking shall consist of a locker, electronic locker, or interior bicycle parking facility in a secured area with controlled access where parking may exceed two (2) hours.
- h. Short-Term Bicycle Parking. Short-term bicycle parking shall consist of a bicycle rack or racks in an easily accessible location that is intended to accommodate visitors, customers, messengers, and others expected to park not more than two (2) hours.

§ 20.28.040. Exceptions to Parking Space Requirements. [Ord. No. 04-09; Ord. No. 2014-05 § 8; Ord. No. 2016-01; Ord. No. 2017-06 § 2; Ord. No. 2019-01 § 4]

It is the City's intent that all off-street parking requirements be observed to the maximum extent feasible. The City recognizes that special circumstances may exist which warrant evaluation for special consideration and possible exceptions to the strict application of the requirements. The Planning and Zoning Commission in considering a request for any exception to the parking requirements will weigh the special circumstances against the potential impacts of the exception on the health, safety and welfare of the public.

A. Exceptions for Residential Uses.

1. Minor Additions Where No New Dwelling Units Are Created. No additional parking spaces will be required for the addition of floor space which does not exceed a cumulative increase of twenty- five (25%) percent of the original floor space within all structures on the lot, provided that in no case shall more than two hundred forty (240) square feet be so exempted.
2. Additions Where No New Dwelling Units Are Created. Where a proposed addition to a dwelling unit increases the original floor space within all structures on a lot, as defined above in Paragraph A.1, by more than two hundred forty (240) square feet and does not create additional dwelling units, the Planning and Zoning Commission may reduce the parking requirements contained in subsection 20.28.030.A upon consideration of the existence of such circumstances as listed in Paragraphs a through e below. In granting any

such reduction, the Planning and Zoning Commission shall make specific findings consistent with its consideration of these and other circumstances relating to the application.

- a. Required spaces cannot be located in front or side yard areas.
 - b. Space is not available to provide the required parking facilities without undue hardship.
 - c. Provision of required parking spaces would be disruptive to landmark trees or would severely restrict private outdoor living space on the site.
 - d. Creation of new off-street spaces would require the elimination of an equivalent or higher number of on-street parking spaces.
 - e. The proposed reduction in parking requirements is appropriate to the total size of the dwelling unit upon completion of the proposed addition.
3. Two-Family Dwellings. The Planning and Zoning Commission may by Conditional Use Permit, reduce the parking requirement for the third required off-street parking space subject to a parking survey within a three hundred (300) foot radius of the subject site.
 4. Multi-Family Dwelling. The Planning and Zoning Commission may by Conditional Use Permit, reduce the off-street parking requirements contained in subsection 20.28.030.A. In reducing on-site parking requirements, the Commission shall consider an on-site car-share service, unbundled parking, private bicycle share program, a Transportation Demand Management Plan (TDM) or a combination thereof.
 5. Residential Mixed-Use Development. The Planning and Zoning Commission may by Conditional Use Permit, reduce the on-site parking requirements contained in subsection 20.28.030.A. In reducing on-site parking requirements, the Commission shall consider an on-site car-share service, unbundled parking, a private bicycle share program, a Transportation Demand Management Plan (TDM) or a combination thereof.
 6. Affordable Dwelling Unit. The Planning and Zoning Commission may by Conditional Use Permit, reduce the on-site parking requirements contained in subsection 20.28.030.A. In reducing on-site parking requirements, the Commission shall consider an on-site car-share service, unbundled parking, a private bicycle share program, a Transportation Demand Management Plan (TDM) or a combination thereof.
 7. Existing Residential Mixed Use and Commercial Mixed-Use Developments. The Planning and Zoning Commission may, by Conditional Use Permit, reduce or waive the parking requirements contained in subsection 20.28.030.A for existing residential mixed-use developments and commercial mixed-use buildings where a residential conversion is proposed.

8. **Parking in Required Yards.** The City recognizes the existence of residential properties whose historical development did not allow for present day parking requirements. The City encourages off- street parking to be located in the rear yard or side yard. In some cases the Planning and Zoning Commission, after due consideration, may find that permitting required parking in a front yard would be more in the public interest than would a reduction in the off-street parking requirement. The Planning and Zoning Commission may approve front yard parking upon making at least the following findings as appropriate to the yard area in question:

Findings:

- a. Parking within a dwelling, a garage, carport or other structure or in the rear or side yard is not feasible or will be disruptive to landmark trees or will severely restrict private outdoor living space on the site.
 - b. The area proposed for parking in the front yard will meet the minimum standard of seven (7) feet six (6) inches in width by sixteen (16) feet in length.
 - c. The parking space is designed so that no part of any vehicle will extend beyond the property line into the public right-of-way or will come within one (1) foot of the back of the sidewalk, nor permit a parked vehicle to constitute a visual obstruction exceeding three (3) feet in height within twenty-five (25) feet of the intersection of any two (2) street lines. The Planning and Zoning Commission shall not approve a front yard parking space unless a finding is made that visual obstructions are not a significant safety hazard.
 - d. Any required off-street parking spaces which are permitted in front yard areas are designed to minimize aesthetic and noise intrusion upon any adjacent property.
9. **Existing Garages.** The Planning and Zoning Commission may find that an existing garage meets the requirements for an off-street parking space if the interior dimensions of such garage are not less than sixteen (16) feet in length, and eight (8) feet in width, for a single garage, or sixteen (16) feet in width for a double garage, and six (6) feet six (6) inches in height. The Planning and Zoning Commission may allow a local obstruction (such as a chimney, stairs or other feature) to protrude into the required parking space dimension, upon finding that such obstruction does not impede the ability to park vehicles in the garage.
 10. **Garages in Front Yards of Up-Slope Lots.** Garages which are situated within required front yard areas, and are built into a slope rising above the street at a ratio of one (1) vertical to two (2) horizontal, or greater, may be maintained or rebuilt to accommodate the same number of spaces as exist, so long as the minimum dimensions stated in subsection 20.28.050.A.1 are met. Such garages may not be converted into nonparking use, and shall not be expanded

outward or upward for the purpose of creating floor space for nonparking purposes, with the exception of access stairways connecting to the dwelling unit, which the garage serves.

B. Exceptions for Nonresidential Uses.

1. Existing Buildings and Land Uses. The following provisions are applicable to existing buildings and land uses only, and shall not apply where construction is proposed for vacant land or any site from which existing structures have been removed or are proposed to be removed.
 - a. Properties on which structures have been erected prior to the effective date of this subsection and which are in use on said date shall be deemed to be in compliance with the off-street parking requirements of this section for the existing use.
 - b. Properties that are not in use on the effective date of this subsection, and on which the use has not been abandoned or discontinued for a continuous period specified in subsection 20.44.040, shall be deemed to be in compliance with the off-street parking requirements of this section for the last use of the property prior to the effective date of this Section 20-28.
 - c. Any on-site parking spaces that, as of the effective date of this subsection, serve the uses referenced in Paragraphs a and b above shall be required to remain in service in order to preserve the status of compliance.
 - d. In the case of any alteration resulting in an increase of floor area, or a change of land use to a category with a greater parking space requirement, any requirement for additional parking spaces will be based solely upon the incremental change of floor area or use.
2. Ground Floor Retail Area.
 - a. In the case of any new construction, enlargement, or increase of capacity involving ground floor space for retail uses in the SC and SPC districts, the calculation of the off-street parking requirement shall include a reduction of the gross building floor area by up to two thousand (2,000) square feet of ground floor retail area.
 - b. No change of commercial use in the SC and SPC districts shall be required to meet the off-street parking requirements of this chapter unless the structure has been expanded to include new floor area. For the purposes of this subsection, increases in floor area necessitated to bring a change of use into compliance with American Disabilities Act (ADA) or Building Code-mandated improvements shall not be considered new floor area.
3. Administrative Exception. Upon the change of use of a site or existing building or structure not otherwise requiring a conditional use permit, the Planning

Director may reduce the parking requirements contained in Paragraph 2.c above upon determination that such change of use will not significantly increase the demand for employee or customer parking. In no case may such reduction result in fewer parking spaces than were required for the previous use of the subject site. Such administrative approval shall be communicated to the Planning Commission.

4. Planning and Zoning Commission Adjustment for Shared Parking. Off-street parking facilities for one (1) use shall generally not be considered as providing required off-street parking facilities for any other use. However, off-street parking facilities for one (1) nonresidential use may be considered as providing required off-street parking facilities for other nonresidential uses on the same site or an adjacent site based upon demonstration that the peak of aggregate parking demand for the combined uses is not greater than the number of off-street parking spaces that are available to serve the combined uses. The Community Development Director may require a survey to substantiate such a request. Any adjustment made by the Planning and Zoning Commission shall be limited to a reduction of a maximum of twenty-five (25%) percent of the requirement, and will be considered through a major use permit process. The recordation of a written agreement among the parties participating in the sharing arrangement shall be a condition of the use permit.
5. Planning and Zoning Commission Adjustment. The Commission may, through a major use permit process, adjust the parking requirements contained in subsection 20.28.030.B for any nonresidential use in an existing building over 2,000 square feet. In granting an adjustment the Commission shall make the following findings:
 - a. On the basis of a survey of comparable situations, parking demand for the proposed use or uses will be less than the required number of spaces.
 - b. The probable long-term occupancy of the property or structure, based on the project design, will not generate substantial additional parking demand.
 - c. Based on a current survey of parking space availability and usage within a five hundred (500) foot walking distance of the boundary of the site of the subject building, a reduction of the parking requirement will not have a substantial effect on the parking available for neighboring uses.
6. Commercial Infill Adjustment for Buildings 2,000 sq. ft. or less in area. For a commercial use with a maximum gross floor area of 2,000 square feet or less in an existing building, the Community Development Director may, through a minor use permit process, adjust the parking requirements contained in subsection 20.28.030.B or allow off-site parking.
7. Blended Commercial Parking Rates in the SC District. Notwithstanding the parking requirements contained in subsection 20.28.030.B, commercial use classifications in the SC Districts shall be subject to the following parking

standards:

- a. Restaurants: Restaurant uses shall have a minimum parking requirement of 1 space per 200 square feet of gross floor area.
 - b. General Standard: The district minimum parking requirement for all other commercial uses is 1 space per 400 square feet of gross floor area.
- C. Exceptions for Nonresidential Uses in a Residential Mixed-Use Development. Where both residential and nonresidential uses are proposed to be combined in a single development project, the Planning and Zoning Commission, through the major use permit process, may adjust the amount of off-street parking required for the nonresidential portions of the project, so long as the requirements of subsection 20.28.030.A for residential use are met. In granting any such adjustment, the Commission shall make the following findings:

Findings:

1. The aggregate amount of parking provided on site, or otherwise made available meets the anticipated demands of all users of the project, considering hours of usage and other demand factors.
 2. A minimum of one (1) parking space is available for the exclusive, full-time (twenty-four (24) hour) use of occupants of each residential unit.
 3. Except as provided in Paragraph 2 preceding, spaces are not designated for exclusive use of any residential or nonresidential owner or tenant.
 4. Sufficient legal agreements are or will be in effect to assure continuing management of parking facilities as a single entity, with assurances as to accessibility by legitimate users of the mixed-use project.
- D. City Council Authorized to Modify Measure D Parking Requirements. After following the normal procedures for amending City Zoning Ordinances, including compliance with the California Environmental Quality Act and conducting duly noticed public hearings before the Planning and Zoning Commission and City Council, the City Council may amend the residential parking requirements established by Measure D (enacted by the Albany voters on November 7, 1978). Such amendments may include, but are not limited to, modifications to the number of parking spaces required per dwelling unit for residential uses in residential districts, as well as the provisions of Measure D which allow the Planning Commission to reduce these residential parking requirements by Conditional Use Permit upon making specified findings. This provision is not intended to limit in any way the authority and discretion which the City Council currently possesses to adopt Zoning Ordinance amendments.

Editor's Note: Ordinance 2016-01 was adopted by the voters at the General Election of November 8, 2016 and became effective by adoption of a resolution of the City Council December 5, 2016.

§ 20.28.050. Parking Area Standards. [Ord. No. 04-09; Ord. No. 09-011 § 20; Ord. No. 2014-05 § 9; Ord. No. 2017-06 § 2]

A. Dimensional Standards.

1. Single-Family Residential Uses:

- a. Enclosed Parking. The minimum dimensions for an enclosed single-car garage meeting the parking requirements for a newly constructed single-family dwelling shall be eight (8) feet six (6) inches in width, nineteen (19) feet in length, and seven (7) feet in height. The minimum width dimension of a double-car enclosed parking space shall be sixteen (16) feet. All minimum width dimensions shall be increased by an additional one (1) foot of width adjacent to each wall or other fixed obstruction that abuts the long dimension of the parking space.
- b. Covered Parking. The minimum dimensions for a single-car covered parking space meeting the parking requirements for a newly-constructed single-family dwelling shall be eight (8) feet six (6) inches in width, eighteen (18) feet in length, and seven (7) feet in height. The minimum width dimension for a double-car covered parking space shall be sixteen (16) feet. All minimum width dimensions shall be increased by an additional one (1) foot of width adjacent to each wall, fence, property line or other fixed obstruction that restricts access abutting the long dimension of the parking space.
- c. Open Parking. The minimum dimensions for an open parking space meeting the parking requirements for a newly constructed single-family dwelling shall be eight (8) feet six (6) inches in width and eighteen (18) feet in length. The minimum width dimension for a double-car open parking space shall be sixteen (16) feet.
- d. Open or Covered Parking (Pre-1978). Where warranted by spatial limitations, the Planning and Zoning Commission may permit an open or covered parking space measuring no less than seven (7) feet six (6) inches wide, by sixteen (16) feet long, to meet off-street parking requirements. The Commission may permit a minimum width dimension for a double-car open or covered parking space to be fourteen (14) feet. All minimum width dimensions shall be increased by one (1) foot of width adjacent to each wall, fence, property line or other fixed obstruction that restricts access abutting the long dimension of the parking space.
- e. The minimum width of a driveway providing access to a required parking space shall be seven (7) feet.

Table 6. Residential Parking Dimensions (20.28.050)			
Type of Parking	Width	Length	Height
Enclosed Parking:			
Single space	8'6"	19'	7'
Side-by-side spaces	16'	19'	7'
Covered Parking:			
Single space	8'6"	18'	7'
Side-by-side spaces	16'	18'	7'
Open Parking:			
Single space	8'6"	18'	N/A
Side-by-side spaces	16'	18'	N/A
Driveways			
Single	7'	N/A	N/A
Double	15'	N/A	N/A

2. Multifamily and Nonresidential Uses:

- a. Standard Space Requirements. The minimum off-street parking dimensions shall be as prescribed below. The Commission may make adjustments to the standards in specific cases, after considering the circumstances of a particular parking plan, land use, or site characteristics.

Table 7. Dimensions of Standard Parking Spaces (20.28.050)				
ANGLE	STALL WIDTH	STALL LENGTH	AISLE WIDTH	
			ONE-WAY	TWO-WAY
Parallel	8'6"*	23'	12'	20'
30°	8'6"	17'6"	11'	20'
45°	8'6"	20'	13'6"	20'
60°	8'6"	22'	18'6"	20'
Perpendicular	8'6"*	20'	25'	25'

*One (1) additional foot shall be provided on each side abutting any wall, fence, property line, or other fixed obstruction that restricts vehicle access.

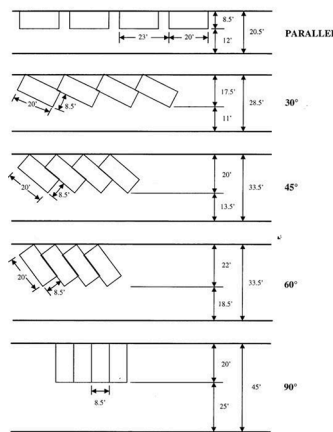
- b. Compact Space Requirements. A maximum of twenty-five (25%) percent of the required parking spaces in parking lots of five (5) or more spaces may be devoted to compact car spaces. All compact car spaces shall be

clearly marked for "compact cars." Compact spaces shall be designed according to the following schedule:

Table 8. Dimensions of Compact Parking Spaces (20.28.050)		
ANGLE	STALL WIDTH	STALL LENGTH
Parallel	7 ft. 6 in.*	20 ft.
45 Degrees	8 ft. 6 in.	16 ft.
60 Degrees	8 ft. 6 in.	17 ft.
Perpendicular	8 ft. 6 in.*	16 ft.

*One (1) additional foot shall be provided on each side abutting any wall, fence, property line, or other fixed obstruction that restricts vehicle access.

Guide to Dimensional Requirements (Standard Spaced):



B. Design Standards. Standards for off-street parking facilities areas shall include:

1. **Lighting.** Lighting shall be deflected away from residential sites public and private view so as to cause no annoying glare.
2. **Bumpers.** Bumpers, posts, wheel stops or other acceptable devices shall be provided on all parking spaces located along property lines.
3. **Tandem Parking.**
 - a. Except as specified in Paragraph b and c below, each parking space shall have unobstructed access from a street or from an aisle or drive connecting with a street without requiring moving another vehicle.
 - b. Required parking spaces for any dwelling unit, including a secondary residential unit, may be arranged in tandem.
 - c. On sites containing only professional offices occupying no more than two thousand five hundred (2,500) square feet of net floor area, with no other

uses on the site, the Planning and Zoning Commission may permit tandem parking with the following findings:

Findings:

- (1) The size or configuration of the site prevents a conventional arrangement of parking spaces.
 - (2) The nature of the office use indicates a limited demand for client or visitor parking.
 - (3) Spaces without direct access to a street are reserved for persons employed on the site.
4. Entrances and Exits. Entrances from and exits to streets shall be provided at locations approved by the Director of Public Works.
 5. Parking Surface. In parking lots the parking area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water without damage to private or public properties, streets, or alleys, or drainage across sidewalks.
 6. Screening and Landscaping. See subsection 20.24.110.F for requirements for screening and landscaping of parking areas.
 7. Nonresidential Parking Facilities in Residential Districts. Where parking facilities serving nonresidential uses are allowed by use permit in residential districts, the following additional standards shall apply:
 - a. Access. The parking facility shall be accessed only by way of the contiguous commercial district only. Direct access to a street from property in the residential district shall be limited to emergency vehicles only.
 - b. Setbacks. Parking facilities, including surface paving and any structures, shall comply with required setbacks for the residential district, except that the setback from the property line contiguous to the commercial district may be waived.

§ 20.28.060. Off-Street Loading. [Ord. No. 04-09; Ord. No. 2017-06 § 2]

- A. Purpose. These regulations are intended to provide off-street loading facilities, to discourage on-street loading and to prevent traffic congestion and a shortage of curb spaces.
- B. General Provisions.
 1. When any structure is constructed, enlarged or increased in capacity, or when a change in use creates an increase in the amount of off-street loading space required, the requirements of this subsection shall be followed.

2. No portion of any required front or side yard shall be used for off-street loading purposes.
3. No area may be utilized and counted both as a required parking space and a required loading berth, except with approval of the Community Development Director based on consideration of patterns of usage for parking and loading.
4. Requirements for uses not specifically listed herein shall be based upon the requirements for comparable uses listed and upon the particular characteristics of the use as determined by the Planning and Zoning Commission.
5. No repair work or servicing of vehicles shall be conducted in the loading area.
6. Signs related to off-street loading shall be pursuant to Section 20.32.

§ 20.28.070. Loading Space Requirements. [Ord. No. 04-09; Ord. No. 2017-06 § 2]

Off-street loading facilities shall be provided as follows:

Table 9. Loading Space Requirements (20.28.070)	
USE	NUMBER OF LOADING SPACES
Multi-tenant Shopping Center	One (1) loading space for each 15,000 square feet of gross floor area.
Commercial, other	As determined by the Planning and Zoning Commission using the following criteria: type of business, frequency of deliveries, typical size of delivery vehicle, and space available.
Industrial:	
Up to 5,000 sq. ft. of gross floor area (GFA)	0 spaces
5,001 - 9,999 sq. ft. GFA	1 space
10,000 – 19,999 sq. ft. GFA	2 spaces
20,000 or more	3 spaces plus 1 additional space per 10,000 s.f. (GFA)

§ 20.28.080. Loading Area Standards. [Ord. No. 04-09; Ord. No. 2017-06 § 2]

- A. Dimensional Standards. All off-street loading facilities shall comply with the following minimum dimensions, except that these dimensions may be reduced by the Planning and Zoning Commission based on the type of vehicle to be accommodated.

Table 10. Loading Space Dimensions (20.28.080)			
USE	SPACE WIDTH	SPACE LENGTH	SPACE HEIGHT
Shopping Center and Industrial	12'	45'	14'
Commercial	12'	25'	14'

- B. Design Standards. Standards for off-street loading areas shall include:
1. Lighting. Lighting shall be deflected away from residential uses so as to cause no annoying glare.
 2. Access Drives. Entrances from and exits to streets shall be provided at locations approved by the Community Development Director.
 3. Loading Surface. Loading areas and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water without damage to private or public properties or streets.
 4. Turning and Maneuvering. Sufficient room for turning and maneuvering vehicles shall be provided on the site without infringing on off-street parking spaces.
 5. Bumper Rails. These shall be provided where necessary for safety or to protect property, in accordance with standards prescribed by the Community Development Director.
 6. Screening/Landscaping. (See subsection 20.24.110.G for requirements for screening and landscaping of loading areas.)

MEMORANDUM

To: City of Albany
From: Patrick Siegman
Date: February 17, 2023
Subject: Codifying Assembly Bill 2097 – Issues & Options

INTRODUCTION

On January 1, 2023, a new state law, Assembly Bill (AB) 2097, went into effect.¹ AB 2097 prohibits public agencies from imposing minimum automobile parking requirements (with a few exceptions) on development located within one-half mile of a high-quality transit corridor or a major transit stop.² We understand that Albany wishes to codify AB 2097 in the City's Zoning Ordinance. To help Albany consider its options, this memorandum proposes two alternatives for codifying AB 2097 and evaluates the pros and cons of each.

The alternatives proposed are:

1. Do the minimum required by state law to comply with AB 2097 (this would remove most minimum parking requirements in most, but not all, of the City)
2. Remove all minimum parking requirements, citywide

Either alternative could include setting maximum parking requirements (e.g., similar to those included in the San Pablo Avenue Specific Plan).

To help guide our evaluation of the pros and cons of these alternatives, we considered the following questions:

1. When did Albany originally adopt minimum parking regulations, and why?
2. How do today's state laws affect the City's ability to impose parking mandates?
3. How will each of these alternatives help, or hinder, progress towards the City's stated goals, as set forth in the Albany 2035 General Plan?

As background, the next section of this memorandum provides an abbreviated history of minimum parking regulations. It then summarizes several state laws (other than AB 2097) that now limit cities' ability to impose minimum parking mandates. It briefly reviews the experience of several cities that have removed minimum parking mandates. Lastly, it highlights a few of Albany's most relevant goals, policies, and implementing actions (excerpted from the General Plan). Albany's ability to achieve these goals, implement these policies, and complete these actions is likely to be significantly affected by its parking policies. The final section of this memorandum compares the likely effects of the two alternatives described above, drawing on the

¹ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2097. Accessed January 28, 2023.

² For brevity's sake, the remainder of this memo refers to automobile parking requirements simply as "parking requirements" or "parking mandates". However, note that AB 2097 does not restrict public agencies' ability to mandate bicycle parking.

transportation research literature regarding minimum parking regulations, and the actual effects observed in some of the cities that have removed them.

BACKGROUND

An Abbreviated History of Albany’s Minimum Parking Mandates

When did Albany first adopt minimum parking regulations, and why? From the City records available, it appears that the City first adopted them in 1959.³ The zoning ordinance establishing them contained a “Purpose” section, which simply stated: “These regulations are intended to provide accessible and well-maintained off-street parking facilities.”⁴ This only raises the question, what public purpose did the City hope to achieve by requiring every private property owner “to provide accessible and well-maintained off-street parking facilities?” The answer to this question is not entirely clear. However, the history of parking mandates in other American cities offers insight.

In 1906, Henry Ford started up his first assembly line and soon began churning out motorcars by the thousands. Automobile ownership soared. By the 1920s, the new problem of “spillover parking” had arrived in many places: automobiles often filled up all of the curb parking in front of shops and apartments, and then sometimes spilled over into nearby residential streets, crowding the curbs there.

In search of free parking near their destinations, motorists often took to circling about, waiting for a space to open up. Figure 1 shows the observed patterns of various motorists circling in search of parking spaces in Chicago in 1939. The study, undertaken by Wilbur Smith, was carried out by recording the license plate numbers of vehicles that repeatedly passed through a busy intersection during the evening hours.

In several studies conducted throughout the 20th century, researchers studying cruising for parking in urban areas found that “between 8 and 74% of traffic was searching for parking, and it took between 3.5 and 13.9 minutes to find a curb space” (Figure 2).⁵ Instead of searching for free curb parking, many motorists double-parked, clogging streets and increasing congestion.

The problem of overcrowded curb parking, and the congestion caused by cruising for parking and double parking, led to a new idea: the minimum parking regulation. In 1923, Columbus, Ohio, apparently became the first city to adopt an off-street parking regulation, requiring one parking space for each apartment in new apartment buildings. In 1939, Fresno became the first city to adopt minimum parking regulations for any use besides housing, adopting them for hotels and hospitals.

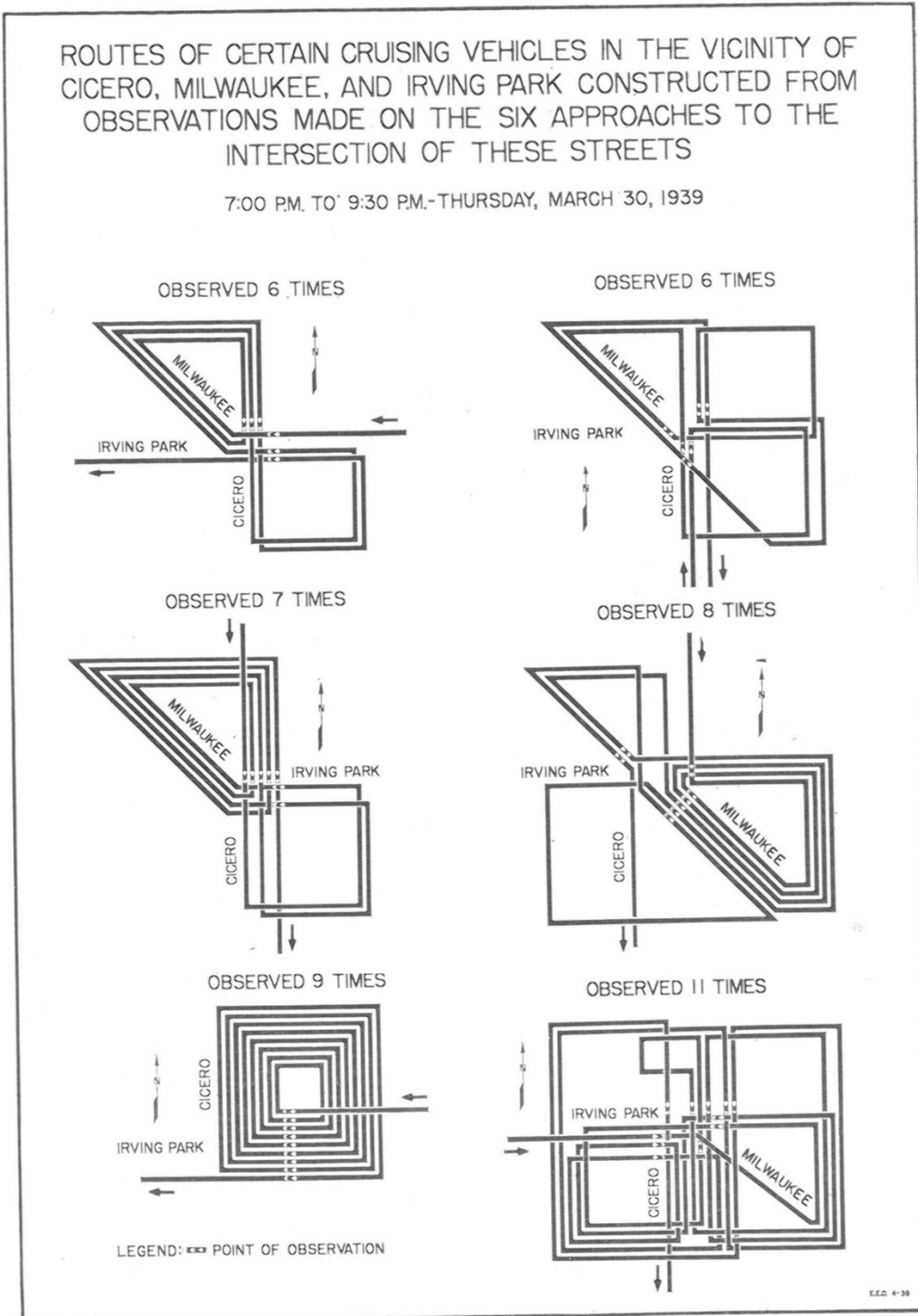
The essential concept was that if each private property owner was forced to build ample on-site parking, and required to build so many spaces that even if parking was free there would be unused spaces left over, then there would be plenty of spaces at the curb. Motorists would no longer have any incentive to circle the block looking for a free curb space and so traffic congestion would be lessened.

³ According to the General Plan, “Prior to 1959, on-site parking was not required for residential development” in Albany. Refer to: City of Albany. “Albany 2035 General Plan,” 2016. Page 3-4.

⁴ City of Albany, California. Ordinance 04-09 Zoning Ordinance of the City of Albany, California. (1959). Page 3-9.

⁵ Shoup, Donald. 2005. *The High Cost of Free Parking*. Chicago: Planners Press. Page 290.

Figure 1 Observed Routes of Cruising Vehicles in Chicago, 1939



From the Report: "A Plan to Relieve Traffic Congestion in the Portage Park Retail Shopping Center." A Survey by City of Chicago, Chicago Motor Club, Chicago Surface Lines, April 1939

FIGURE 4—Observed Routes of Cruising Vehicles

Figure 2 Twentieth-Century Cruising

Year	City	Share of traffic cruising (percent)	Average search time (minutes)
1927	Detroit (1)	19%	
1927	Detroit (2)	34%	
1933	Washington		8.0
1960	New Haven	17%	
1965	London (1)		6.1
1965	London (2)		3.5
1965	London (3)		3.6
1977	Freiburg	74%	6.0
1984	Jerusalem		9.0
1985	Cambridge	30%	11.5
1993	Cape Town		12.2
1993	New York (1)	8%	7.9
1993	New York (2)		10.2
1993	New York (3)		13.9
1997	San Francisco		6.5
2001	Sydney		6.5
Average		30%	8.1

The numbers after Detroit, London, and New York refer to different locations within the same city.

After World War II, minimum parking mandates spread rapidly. UCLA Prof. Donald Shoup writes that, “A 1946 survey of 76 cities found that only 17 percent had parking requirements in their zoning ordinances. Five years later, 71 percent of these cities had parking requirements or were adopting them.”⁶ Albany was apparently a bit of a late-comer to postwar America’s rush to enact minimum parking regulations, but we can surmise that the City policymakers of 1959 enacted them for the same reasons as other American cities: to prevent overcrowded curb parking and reduce traffic congestion.

The stated purpose of Albany’s minimum parking regulations has changed a bit since 1959. Today’s ordinance specifies that they are intended to, “Ensure that off-street parking facilities for vehicles and bicycles are provided for new land uses and for alterations and enlargements of existing land uses and structures in proportion to the need for such facilities created by each use.”⁷

This goal sounds sensible, but how many parking spaces are sufficient to meet “the need for such facilities created by each use”? As UCLA’s Prof. Shoup notes, “If curb parking is free and the city wants to prevent spillover, developers must supply at least enough on-site spaces to satisfy the demand for *free* parking.”⁸

From the documents available, it isn’t clear how the city planners of 1959 decided to set specific minimum parking ratios for each land use covered by Albany’s new mandate, or the rationale that

⁶ Ibid. Page 22.

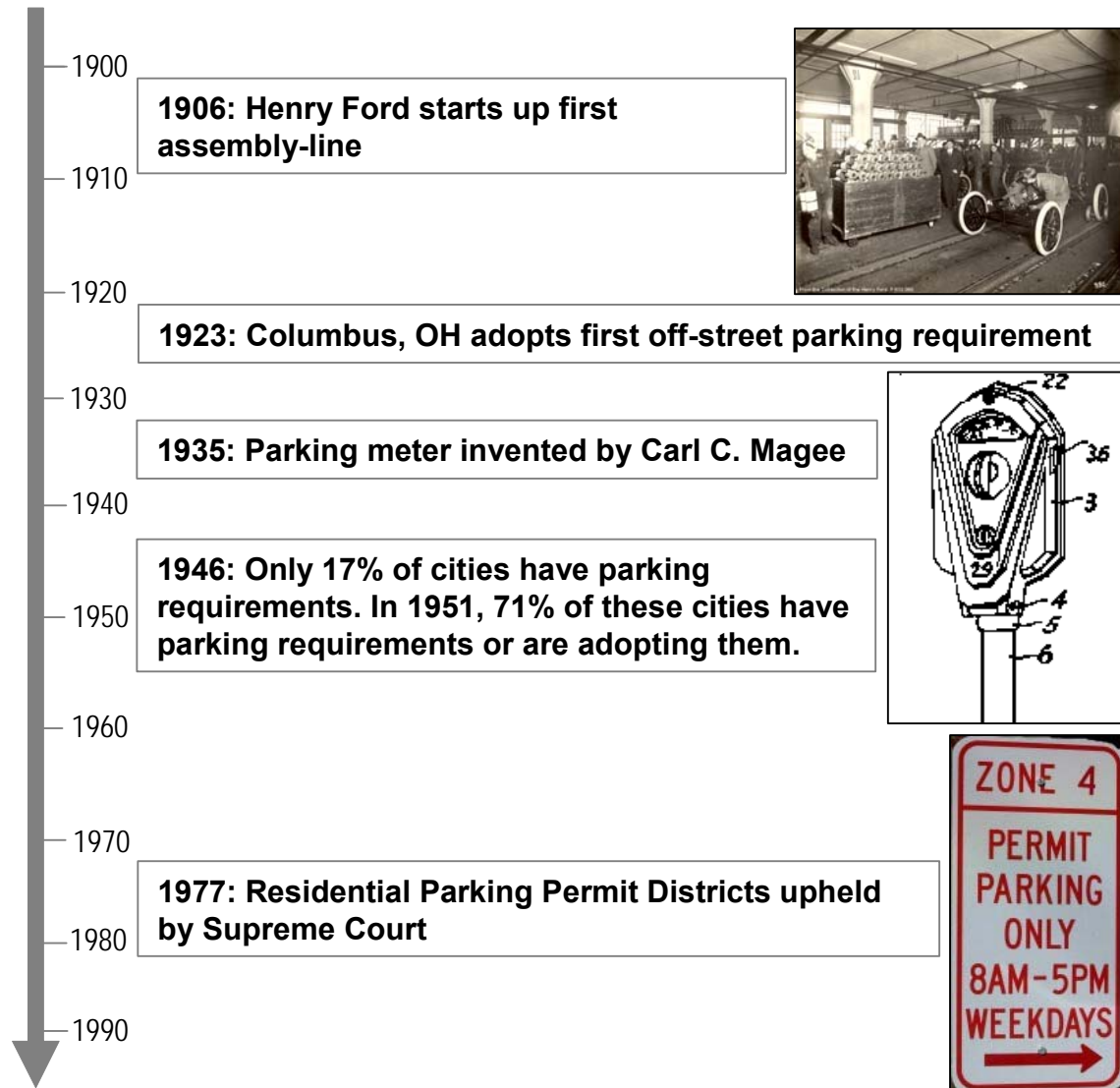
⁷ City of Albany, California, Municipal Code Section 20.28.010. “OFF-STREET PARKING AND LOADING REGULATIONS: PURPOSE.” Accessed January 24, 2023. <https://ecode360.com/37886662>.

⁸ Shoup, Donald. 2005. *The High Cost of Free Parking*. Chicago: Planners Press. Page 22.

was used to come up with the ratios in today’s regulations. However, researchers have found that urban planners usually set parking mandates by referring to “national surveys of peak parking occupancy observed at suburban sites with ample free parking and no public transit”, or by copying other cities’ requirements. Shoup notes that, “As a result, cities require so much parking that drivers park free for 99 percent of their trips.”⁹

Albany, like most American cities, does not explicitly require free parking, but *has* set minimum parking regulations that are usually high enough to satisfy the demand for parking even when parking is given away for free. Forcing the creation of this much supply has had the predictable result of ensuring that most destinations in Albany do in fact provide free parking.

Figure 3 History of Off-Street Parking Regulations



⁹ Ibid. Page 22.

Hawley Simpson, who conducted the first research on cruising for parking (and who later became president of the Institute of Traffic Engineers), predicted that requiring enough parking to create free off-street parking at every destination would have unintended consequences. "Rather than assisting in solving the street traffic problem" he said, "it may very probably have the opposite effect by inducing a large amount of unnecessary vehicle usage. Free storage is an economic fallacy." As described later in this memorandum, subsequent research studies appear to have proven Mr. Simpson right.

In 1923, when minimum parking regulations were apparently first invented, they may have appeared to be the only solution for the novel problem of cars filling up all of the curb space. It was not until 1935, in Oklahoma City, that the parking meter would be invented and then spread rapidly to other cities (Figure 3). Even then, minimum parking regulations may have appeared to be the only reasonable solution for preventing spillover parking in many areas, given the relatively high cost of installing and maintaining meters. Moreover, land in many areas was cheap. When California cities first began imposing minimum parking regulations, there seemed to be plenty of orchards and fields available to be paved over, so the cost of complying with these regulations might have seemed low.

The concept of residential parking permit districts, which reserve curb spaces for residents and their guests, and can effectively prevent spillover parking, was also yet to be invented. The nation's first to be challenged in court, in Arlington, Virginia, was upheld by the Supreme Court in 1977, and thereafter, residential parking permit districts spread rapidly throughout the country.

In 1959, Albany city planners and traffic engineers had few tools at their disposal for preventing overcrowded curb parking. They could install mechanical, coin-operated parking meters, or prohibit curb parking, or invent something new (like the unfamiliar and largely untested concept of residential parking permit districts).

Today, both technology and policy have advanced. Many cities now manage curb parking, using pricing and/or permits, to ensure that it remains readily available. Parking pricing is eased by technologies such as wirelessly-networked, credit-card-accepting multi-space meters and pay-by-phone systems. The latter let cities charge for parking without installing physical meters. New technologies have also made it feasible for cities to set demand-based parking prices, adjusting prices regularly to ensure that curb parking remains readily available on each block. San Francisco and Berkeley, for example, do this at their metered parking spaces.¹⁰ The legality of residential parking permit districts (and variations on this theme, such as reserving some curb parking spaces for other specific groups or uses) is also now well established. License plate recognition systems have made enforcing permits easier and let cities dispense with issuing physical permits, such as rearview mirror hangtags or plastic bumper stickers. Instead, motorists' license plates often serve as "virtual parking permits". All of these options have made managing curb parking easier and cheaper.

Thanks to advances in technology and law, Albany now has the option of removing minimum parking mandates, without the inevitable result being overcrowded curb parking.

¹⁰ Both cities, however, currently set demand-based parking prices at many metered spaces only during limited time periods. For example, most meters in Berkeley require payment only from 9 AM to 6 PM, Monday through Saturday. As a result, curb parking often becomes overcrowded as soon as the meters turn off. On Saturday nights, restaurants and bars in downtown Berkeley are usually thronged with patrons, private off-street garages charge fees of \$5 or more, and curb parking is free - a recipe for overcrowded curbs and cruising for free parking. The city's rationale for this practice is unclear.

Existing State Law Regarding Minimum Parking Regulations

Over the decades since cities first began imposing minimum parking regulations, a large body of research on their effects has been published. Much of that research has been critical of the practice. The California state legislature has responded by passing several laws, in addition to AB2097, that limit the ability of local agencies (i.e., cities and counties) to impose minimum parking mandates. Overall, the legislature's intent in passing these laws was to increase housing supply, reduce its cost, and reduce motor vehicle trips and associated pollution. AB 2097, for example, states, "The Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions." State laws that limit minimum parking mandates include the following.

AB 744 (effective January 1, 2016) limits local agencies' authority to impose minimum parking mandates on developments containing affordable housing and located near transit, unless the local agency has completed its own parking study meeting specific standards.¹¹ AB 744's provisions have largely been surpassed by Senate Bill (SB) 35, described below, which completely removes minimum parking regulations for many affordable housing developments and mixed-income housing developments located near transit. However, while SB 35 does not apply to cities that have met their Regional Housing Need Allocation goals, AB 744 applies to all.

AB 2299, AB 2406, and SB 1069 (all three effective January 1, 2017) limit local agencies' ability to impose minimum parking mandates on accessory dwelling units (ADUs).

University of California scholars Anne Brown, Vinit Mukhija and Donald Shoup summarize these laws as follows:

*First, Assembly Bill 2299 requires cities to allow both uncovered and tandem parking in driveways to satisfy off-street parking requirements when a garage is converted or demolished to construct a second unit.... Second, Assembly Bill 2406 states that no additional parking is required for second units of 500 square feet or less within the primary home.... Third, Senate Bill 1069 prohibits parking requirements for second units if the second unit is within a half-mile from public transit, within a historically significant neighborhood, within one block of a car share vehicle, or in a district where parking permits are required but are not provided to the second-unit occupant....*¹²

California law also specifies that parking regulations for ADUs shall not exceed one parking space per unit or bedroom, whichever is less, under any circumstance. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency may not require that those off-street parking spaces for the primary unit be replaced. As a result, Albany, like other communities in California, has experienced single-family homeowners replacing their garages with ADUs and eliminating off-street parking on their lots, consistent with State law.

¹¹ https://leginfo.ca.gov/faces/billPdf.xhtml?bill_id=201520160AB744&version=20150AB74492CHP. Accessed January 28, 2023.

¹² Brown, Anne, Vinit Mukhija, and Donald Shoup. "Converting Garages into Housing." *Journal of Planning Education and Research* 40, no. 1 (March 2020): 56–68. <https://doi.org/10.1177/0739456X17741965>. Accessed January 28, 2023.

SB 35 (effective January 1, 2018) streamlines the approval of developments containing affordable housing in cities that are not meeting their Regional Housing Need Allocation goals.¹³ The law limits local governments' authority to impose parking mandates on streamlined developments. Specifically, SB 35 states:

(1)...a local government...shall not impose parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

...If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

Like most California cities and counties, Albany is currently subject to SB 35's streamlined approval process for developments containing affordable housing.¹⁴ Notably, the SAHA 100% affordable housing development on Cleveland Ave. was approved under SB35.

AB 1763 (effective January 1, 2020) prohibits local agencies from imposing minimum parking regulations on supportive housing developments and on affordable homes for people with special needs.¹⁵

SB 9 (effective January 1, 2022) makes it legal statewide to build up to four homes on most lots that are zoned for single-family homes only.¹⁶ Cities cannot require more than one parking space per home for projects built under the law. If a home built under SB 9 is on a parcel located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block, local agencies are barred from imposing parking requirements on it. In Albany, SB9 is applicable only in the R-1 zoning district, which allows single-family homes, but not duplexes or multifamily units.

AB 1851 and AB 2244 reduce minimum parking regulations for faith-based organizations that build affordable housing.¹⁷ AB 1851 (effective January 1, 2021) lets religious institutions eliminate up to half of the existing parking spaces on their property when they build affordable housing on their land, and prohibits cities from requiring the replacement of those spaces. Cities

¹³ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB35. Accessed January 28, 2023.

¹⁴ https://www.hcd.ca.gov/policy-research/docs/sb35_statewidedeterminationsummary.pdf. Accessed January 28, 2023.

¹⁵ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1763. Accessed January 28, 2023.

¹⁶ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9. Accessed January 28, 2023.

¹⁷ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1851 and https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2244. Accessed January 28, 2023.

must also allow the religious-use parking spaces that remain after the completion of the project to count toward the number of spaces otherwise required for the new homes. AB 2244 (effective January 1, 2023) extends AB 1851 to apply to both existing and new places of worship. Under AB 2244, if a religious institution proposes to build a new place of worship and an affordable housing development simultaneously, the number of parking spaces that would otherwise be required under the local agency’s parking regulations for the new place of worship is reduced by half.

AB 2011 (effective July 1, 2023) allows for ministerial, by-right approval for affordable housing on commercially-zoned lands, and also allows such approvals for mixed-income housing along commercial corridors, as long as the projects meet specified affordability, labor, and environmental criteria.¹⁸ Cities may not impose minimum parking regulations on projects that qualify for streamlined approval under AB 2011, with the exception of regulations related to bicycle parking, electric vehicle parking spaces or parking spaces accessible to persons with disabilities.

Altogether, AB 2097 and the laws listed above substantially limit Albany’s ability to impose minimum parking mandates, particularly for residential projects.

Experience from Cities That Have Removed Minimum Parking Mandates

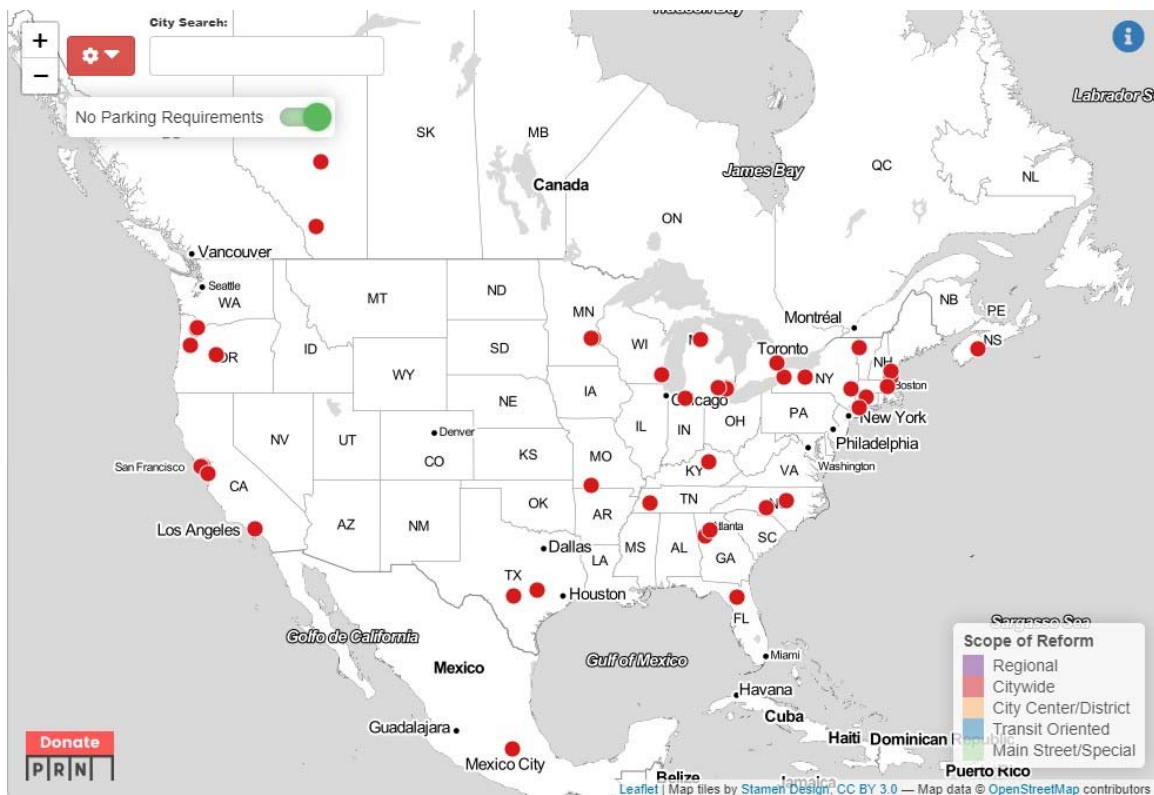


Figure 4 North American Cities That Have Removed All Minimum Parking Regulations

¹⁸ <https://abag.ca.gov/sites/default/files/documents/2022-10/AB-2011-vs-SB-6-Comparison-Chart.pdf>. Accessed January 28, 2023.

As Albany considers changes to its parking standards, what can it learn from the experience of cities that have removed minimum parking mandates? In recent decades, many cities around the world have removed these regulations, so there is no shortage of examples to consider. For example, in 2001, the United Kingdom published a national directive, Planning Policy Guidance 13, which stated, “There should be no minimum parking standards for development, other than parking for disabled people.” To comply, dozens of UK cities moved from having minimum parking regulations with no maximum, to maximum parking limits with no minimum.¹⁹

Closer to home, researchers have documented dozens of North American cities that have removed all minimum parking requirements, citywide (Figure 4). They range from Mexico City (population 8.9 million) to Lunenburg, Nova Scotia (population 2,263). Bay Area cities among this group include Alameda, Emeryville, San Francisco, and San Jose. Scholars and practitioners have also investigated the effects of removing minimum parking mandates in many of these places. Their findings on a few of these examples are summarized below.

Buffalo, New York

In 2017, Buffalo adopted a new zoning code, the Green Code²⁰, which repealed minimum parking regulations citywide. University of Buffalo scholars investigated the effects of this policy change by studying 36 major developments that were approved in the first two years after the new policy went into effect.²¹ Key findings included the following:

- “53% of major developments included as many parking spaces as had been previously required, or exceeded former requirements.”
- “Developers of mixed-use sites...took advantage of the reform, but single-use residential, commercial, and civic projects specified a parking supply in excess of that required by earlier minimum requirements.”
- “Developers of 14 sites mixing retail space and residential units incorporated 53% fewer parking spaces than required under previous zoning. Four added no parking, opting instead to share parking with other properties.” These mixed-use projects included two large housing complexes targeted to graduate students.
- “One-third of the developments in our study made parking an amenity, charging user fees rather than bundling it into rent or purchase prices.”

“Without minimum requirements,” the researchers conclude, “costly and land-consuming off-street parking becomes an option instead of a mandate, paid for by those who use it. Overall, the Green Code encouraged less parking in transit-rich locations along primary commercial corridors.”

¹⁹ United Kingdom Department for Communities and Local Government. 2001. *Planning Policy Guidance 13: Transport*. <http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/planningandbuilding/pdf/155634.pdf>. Accessed January 29, 2023.

²⁰ <https://www.buffalony.gov/1224/Using-the-Unified-Development-Ordinance>. Accessed January 30, 2023.

²¹ Hess, Daniel Baldwin, and Jeffrey Rehler. “Minus Minimums: Development Response to the Removal of Minimum Parking Requirements in Buffalo (NY).” *Journal of the American Planning Association* 87, no. 3 (July 3, 2021): 396–408. <https://doi.org/10.1080/01944363.2020.1864225>. Accessed January 30, 2023. For a summary, see: <https://usa.streetsblog.org/2021/06/14/what-happened-when-buffalo-changed-its-parking-rules/>.

Burlington, Vermont

In January 2023, Burlington, Vermont, abolished the city's remaining minimum parking regulations²², with the aim of removing an obstacle to building housing and reducing fossil fuel emissions.²³ Previously, in 2020, the City had removed minimum parking mandates in several areas, including downtown and along the city's busiest streets.²⁴ According to Burlington's planning director, "her department has been monitoring the effects of eliminating parking minimums for the aforementioned areas of the city and recorded a 15% overall reduction in 2021 in parking built compared to what would have been required with previous minimums. She said each project was different, however, some building considerably less than past minimums would have allowed and some building about the same amount as they used to be required to build."²⁵

Fayetteville, Arkansas

Fayetteville, Arkansas, removed minimum parking regulations for commercial land uses citywide in 2015, after city planners observed that many buildings had sat vacant for decades, and parcels remained unused, because they lacked enough space to meet the parking regulations in place at the time.

After the change, says Fayetteville planner Quin Thompson, "The buildings that I had identified as being perpetually and perhaps permanently unusable were very quickly purchased, redeveloped, and are in use right now. ... I can't think of any that are still out there that I had used as case studies that haven't been redeveloped."²⁶ Catie Gould, a transportation researcher at the Sightline Institute, writes that:

"In Fayetteville and other cities, eliminating parking minimums citywide has had another benefit: reducing administrative work and freeing up city staff to work on other things.

... Kevin Robinson was one of those planners, until he was hired as director of Planning and Development Services for Albemarle, North Carolina. To his surprise, the city had almost no parking requirements, having eliminated virtually all of them two decades prior.

... "From an administrative standpoint, it's a heck of a lot easier to deal with," said Robinson. "Quite honestly, a lot of times [parking minimums] are very arbitrary numbers," Robinson said. Now that he no longer has to enforce them, he has more time to spend on other aspects of development — including a downtown parking plan."²⁷

²² <https://www.burlingtonfreepress.com/story/news/local/2023/01/11/burlington-development-council-votes-to-eliminate-parking-minimums/69794906007/>. Accessed January 30, 2023.

²³ <https://www.burlingtonfreepress.com/story/news/local/2022/10/17/burlington-parking-city-attempts-to-spark-development-reduce-car-usage/69556091007/>. Accessed January 30, 2023.

²⁴ <https://www.wcax.com/2022/07/18/burlington-may-eliminate-minimum-parking-requirements-developers/>. Accessed January 30, 2023.

²⁵ <https://burlingtonfreepress.com/story/news/local/2022/10/17/burlington-parking-city-attempts-to-spark-development-reduce-car-usage/69556091007/>. Accessed January 30, 2023.

²⁶ Gould, Catie. "Shifting Gears: Why Communities Are Eliminating Off-Street Parking Requirements—and What Comes Next." *Land Lines*, October 12, 2022. <https://www.lincolinst.edu/publications/articles/2022-10-shifting-gears-eliminating-off-street-parking-requirements>. Accessed January 30, 2023.

²⁷ Ibid.

Portland, Oregon

“It took almost a decade for a new apartment building with no parking to arrive in Portland after the city waived requirements near transit in 2002,” writes Sightline Institute researcher Catie Gould.²⁸ However, by 2012:

“Apartment construction was booming, and buildings without off-street parking were becoming increasingly common.

...The epicenter was a 13-block section of Division Street, a car-oriented commercial corridor experiencing a building boom. By the time the issue made it to the front pages of Willamette Week, the local weekly paper, 11 new multifamily buildings were under development, seven with no parking at all.

A city-commissioned survey of 115 residents of new apartment buildings would show that 72 percent of the respondents owned cars, with the majority parking on neighborhood streets. Even though the same survey showed that the areas around the buildings had plenty of available parking, neighbors didn’t perceive it that way.

...In response to the outcry, Portland’s city council reinstated a parking requirement for multifamily developments with more than 30 units. Those larger buildings would need to provide one parking space for every three or four units, depending on the building size. “That was the strategic retreat,” Hales explained. “We decided to adjust our ideal slightly to a watered-down version in order to reduce the controversy.”

...While supporters of parking mandates prevailed in that case, the matter was far from settled. Several years after the 2013 brouhaha, regulated affordable housing near transit regained its exemption from parking requirements, after rising rents and economic displacement prompted Portland to declare a housing state of emergency and elect a tenant advocate to city council.

...When parking complaints bubbled up in Portland’s Northwest neighborhood in 2016, the city was ready to try a different strategy: directly managing on-street parking. A local parking advisory committee had petitioned Portland’s city council to apply the citywide parking requirements to the growing district, which had historically been exempted. But when a study showed that those regulations would have made 23 percent of newly constructed homes in the neighborhood illegal, the council opted to improve the district’s fledgling parking permit program instead.”²⁹

Seattle, Washington

Seattle eliminated minimum parking regulations near transit in 2012. According to an article in Land Lines, the journal of the Lincoln Institute of Land Policy, “A study of 868 residential developments permitted in the following five years found that 70 percent of new buildings in areas

²⁸ Ibid.

²⁹ Ibid.

not subject to parking requirements still chose to have on-site parking. Collectively, the new buildings included 40 percent fewer parking spaces than would have previously been required, saving an estimated \$537 million in construction costs and freeing up 144 acres of land.”³⁰

Key Takeaways from Cities That Have Removed Minimum Parking Mandates

The results observed in Buffalo, Burlington, Fayetteville, Portland, and Seattle illustrate some of the typical effects of removing minimum parking regulations:

- **Builders continue to include on-site parking in the great majority of projects.** Most commercial tenants (whether retail, office, or another use), most homebuyers, and most renters want on-site parking and are willing to pay a premium for buildings that include it. Recognizing this, builders provide on-site parking at the great majority of projects, in order to meet market demand.
- **Builders built a few projects with no on-site parking.** These projects fell into several categories:
 - **Buildings targeted at niche markets of people (e.g., lower-income renters) who typically own few or no cars.** For example, in Buffalo, two apartment complexes for graduate students, built on primary transit corridors, included no on-site parking, an amount appropriate to the needs of a low-income population that owns few vehicles.
 - **Projects that arrange to use off-site parking.** In Buffalo, four of the 36 major developments built after the city removed minimum parking mandates were mixed-use projects with no on-site spaces. These projects relied on shared parking, making use of underused parking at nearby sites. In one case, this made it financially feasible to rehabilitate and reuse a historic structure, as 10 apartments above retail.
 - **Projects where residents made use of unpriced and unmanaged curb parking.** In Portland, several apartment buildings without parking were built along Division Street. Nearby curb parking was left unmanaged, with neither residential permits nor meters, attracting both new residents’ cars and complaints from existing residents. These projects highlight the importance of managing curb parking in areas where minimum parking mandates are removed and substantial new development occurs.
- **Removing minimum parking mandates also results in more creative and efficient approaches to meeting parking needs.** Many of Buffalo’s mixed-use developments included fewer spaces than previously required. At these projects, parking could be efficiently shared between uses, making it possible to meet market demand for parking with fewer spaces than previously required by an inflexible code
- **When minimum parking regulations are removed, people begin treating parking as more of an ordinary commodity, that is bought and sold, rented and leased.** One third of the major developments studied in Buffalo unbundled the cost of parking from the cost of renting an apartment, by charging a separate parking fee. Unbundling parking costs is also commonplace in other cities that have removed minimum parking regulations. Making parking an optional amenity, instead of a mandatory purchase, has many benefits: it reduces rents and home prices; reduces parking demand, traffic, and pollution; and helps balance parking supply and demand. However, it also increases the likelihood that on-street parking nearby will need active management, using tools such as

³⁰ Ibid.

- parking pricing and/or residential parking permits. If a site charges parking fees, while nearby curb parking is left free or underpriced, motorists will often overcrowd the curb parking (even if the site has ample on-site spaces available).
- **Cities report a variety of benefits from removing minimum parking mandates, including increased investment, more tax revenue, lower rents and home prices, rehabilitation and adaptive reuse of long-vacant buildings, and fewer administrative burdens for city planners.** Cities also report better urban design outcomes: allowing less parking leaves more space available for trees, gardens, and outdoor dining. Better streetscapes often result, with fewer driveways and more street trees.
 - **After the removal of minimum parking regulations, change often happens slowly, over many years, as it takes time for new developments to be planned, approved, financed, and built.** In Portland, for example, it took almost 10 years after the removal of minimum parking mandates near transit for the first car-free building to be built.
 - **However, eventually, most cities that remove minimum parking mandates find that they need to devote more attention to managing curb parking, using permits and/or prices, to prevent spillover parking problems.** This is usually necessary only in areas where significant change occurs, such as along major transit corridors.

Relevant City Goals & Policies (Selected)

The Albany 2035 General Plan, adopted in 2016, guides decisions about development, growth, and conservation in the City. The plan sets forth Albany's goals in areas such as land use, transportation, housing, open space, natural resources, and public services. It also includes policies and implementing actions intended to achieve those goals. A few of the goals, policies, and implementing actions whose chances of fulfillment will be strongly affected by parking policies are highlighted below.³¹

General Plan

Policy LU-3.14: Parking Management. Manage parking along the San Pablo and Solano Avenue corridors in a way that meets the needs of local businesses, provides convenience for local shoppers and patrons, and minimizes spillover parking onto nearby residential streets. The use of shared parking lots is strongly encouraged.

Action LU-3.C: Commercial Parking Studies. Evaluate commercial parking requirements to ensure that they are consistent with national best practices, support shared parking and car-sharing programs, and contribute to local sustainability objectives.

GOAL T-7: PARKING. Balance the need for vehicle parking with the goal of reducing auto dependence and achieving more sustainable development.

Policy T-7.1: Parking Management. Develop comprehensive parking management strategies which maximize the efficient use of available on-street and off-street parking spaces.

Policy T-7.2: Balancing Supply and Demand. Consider timed parking limits, residential parking permits, parking benefit districts, paid public parking, more stringent parking enforcement, and other methods to address parking in locations where demand exceeds supply during all or part of

³¹ For brevity's sake, not all General Plan goals that may be affected by parking requirements are listed.

the day. When modifying parking regulations, consider the potential impact on adjacent residential streets.

Policy T-7.3: Parking Standards. Adopt residential parking standards which consider factors such as the number of bedrooms in the unit, proximity to transit, the availability of on-street parking, and the characteristics of occupants (e.g., seniors, families, etc.), rather than applying a “one-size-fits-all” standard.

Policy T-7.4: Shared Parking. Encourage shared parking agreements so that adjacent or nearby uses with different demand characteristics can utilize the same parking spaces.

Policy T-7.5: Mechanical Lifts. Allow innovative methods of accommodating parking demand such as mechanical parking lifts.

Policy T-7.6: Car-Share and Bike-Share Parking. Consider incentives or requirements to include parking for car-share vehicles and shared bicycles in new mixed use development. Also consider preferential parking or dedicated curbside spaces for shared vehicles and shared ride services.

Policy T-7.7: Design of Surface Parking. On larger development sites where off-street surface parking lots are required, parking should be located to the rear or side of the building rather than between the building and the street. Site plans in which surface parking dominates the site or the street frontage are strongly discouraged.

Policy T-7.8: Unbundling. Allow unbundled multi-family parking, so that owners or buyers of multi-family units may opt out of having their own parking space and pay a lower rent or sales price in exchange.

Climate Action and Adaptation Plan

Adopted December 2019, the Albany Climate Action and Adaptation Plan, includes as one of its four central strategies, the adoption of active, shared, and electric transportation, and specifically supports a parking management strategy and curb management program.

Action 1.1.3 Research feasibility and emissions reduction impact of implementing a parking management strategy. This research would explore the costs, benefits, and considerations of introducing a parking management strategy such as paid parking or permit systems, while ensuring adequate, accessible parking remains available.

Action 1.1.5 Research and develop a curb management program that prioritizes carbon reduction. Elements of the program would include 1) establishing designated rideshare and third-party carpooling parking and loading zones, 2) incentivizing carsharing programs, and 3) integrating scooter and bike share docks, bike parking, electric vehicle charging, and green infrastructure.

COMPARING TWO ALTERNATIVES FOR CODIFYING AB 2097

How do minimum parking mandates affect Albany’s ability to achieve its goals and implement its policies? To evaluate this, this section draws on recent transportation research and on the effects observed in cities that have removed minimum parking mandates. It then considers which of the two alternatives proposed – doing the minimum required to comply with state law, or removing minimum parking regulations citywide – would do more to advance Albany’s adopted goals.

A large body of published, peer-reviewed transportation research literature and the real-world experience of other cities show that minimum parking mandates have the following effects.

Minimum parking mandates can be an effective way of reducing spillover parking in some cities, but their ability to accomplish this in Albany is now limited. As described in the History section of this memorandum (above), because Albany’s curb parking is free of charge, minimum parking regulations can only be effective in keeping curb parking spaces available if they are set high enough to ensure that the vast majority of properties provide enough on-site parking to satisfy the demand for *free* parking. In Albany, the ability of minimum parking regulations to prevent spillover parking is significantly limited by several factors:

- **State laws have removed most minimum parking requirements in most of the City.** Motorists (in particular, those parking all day or overnight) are often willing to walk five to 10 minutes to secure a free curb space, so most blocks of Albany are now within walking distance of properties that are no longer subject to Albany’s minimum parking rules. Therefore, Albany’s remaining minimum parking mandates are less likely to keep curb parking available in the long run, as properties redevelop.
- **Neighboring Berkeley has removed all minimum parking mandates for residences,** requires the unbundling of parking costs from rents at certain types of homes, and charges parking fees or requires residential permits for most curb spaces. Blocks of Albany that offer curb parking free of charge and are within easy walking distance of Berkeley are therefore likely to attract Berkeley motorists.
- **The San Pablo Avenue Specific Plan has removed minimum parking requirements for residential uses, limited the number of residential spaces allowed, and requires the unbundling of parking costs from rents** (i.e., it requires that spaces be rented separately from the homes themselves). These measures advance several City goals. However, they also encourage overcrowding of nearby curb parking by motorists if curb spaces remain free or underpriced and do not require permits.
- **Minimum parking regulations can be difficult to enforce, especially at small residential buildings with enclosed, individual garages (e.g., single-family homes, townhouses, and small apartment buildings).** Code enforcement staff is limited, and violations of minimum parking regulations can be hard to detect. Spotting a vehicle parked on a public street without a residential permit is relatively easy. By contrast, spotting a garage that has illegally been converted to storage or another use often requires contacting the occupants to get the garage door opened for inspection.

Given all of these recent changes, in the long run, as properties redevelop, Albany’s remaining minimum parking regulations are unlikely to be effective in ensuring that curb parking remains readily available.

Minimum parking mandates may or may not meet the needs of local businesses, shoppers, and patrons. The experience of cities such as Fayetteville and Buffalo (described above, in the Background section of this memorandum) shows that when minimum parking regulations are removed, long vacant storefronts and properties are often quickly redeveloped. New shops and businesses spring to life. Removing minimum parking regulations in Albany may achieve similar results, helping meet the needs of local businesses that want to open or expand, and helping shoppers and patrons get the goods and services they want. Property owners who wish to rent or lease excess parking to new businesses and residents may also benefit.

However, when businesses open or expand with fewer spaces, nearby property owners may need to begin managing access to their own parking to prevent spillover problems. Similarly, nearby curb parking may eventually require more management to ensure it remains available for businesses, shoppers, and patrons.

Minimum parking mandates reduce housing affordability. Research by Santa Clara University’s C.J. Gabbe and UCLA’s Gregory Pierce found that nationwide, providing a single garage space “adds about 17 percent to a unit’s rent.”³² “Minimum parking requirements create a major equity problem for carless households,” they write. The regulations force carless – generally low-income – people to pay higher rents for parking they don’t need and can’t use. Minimum parking mandates also make for-sale housing less affordable. UC Berkeley researchers Wenyu Jia and Martin Wachs found that in San Francisco, “the average condo unit with off-street parking sold for 13% more than the price of comparable units without parking”.³³ Conversely, unbundling the cost of parking from the cost of housing lowers rents and home prices. Jia and Wachs found that in San Francisco, 20% more households could qualify for loans on condominiums without parking.

Minimum parking mandates increase automobile ownership and use, and therefore increase traffic. Multiple research studies have now confirmed this. For example, University of California scholars surveyed auto ownership and basic transportation habits of the residents of 2,654 homes in 197 projects built in San Francisco since 2002. These residents were effectively randomly assigned to buildings with or without parking, by the lottery system that determines who is offered a place in San Francisco’s below-market-rate apartments and condominiums. What was the result of this natural experiment?

The authors concluded that residences with more on-site parking induce more automobile ownership (Figure 5). “Buildings with at least one parking space per unit (as required by zoning codes in most U.S. cities, and in San Francisco until circa 2010) have more than twice the car ownership rate of buildings that have no parking,” the authors write.³⁴ As this research makes clear, minimum parking mandates work at cross purposes to Albany’s goal of reducing auto dependence.

Albany has one of the highest alternative mode shares in the region, which is a foundation to build on to encourage more sustainable modes of travel. Among Albany residents commuting to work in 2019 (pre-pandemic), 29% took public transit, 9% carpooled, 7% biked, and 6% walked.³⁵ Moreover, anecdotally, electric bikes and longer bikes (e.g., cargo bikes, bikes with trailers) have become more prevalent in recent years for both individuals and families in Albany. The City continues to support these alternative modes through implementation of Active Transportation Plan projects and coordination with AC Transit. Removing minimum parking mandates, so that parking becomes an optional amenity instead of a required purchase, can be expected to

³² Gabbe, C.J., and Gregory Pierce. “The Hidden Cost of Bundled Parking.” Access (Spring 2017). <https://accessmagazine.org/spring-2017/the-hidden-cost-of-bundled-parking/>. Accessed February 10, 2023.

³³ Jia, Wenyu and Martin Wachs. “Parking and Affordable Housing.” Access, no.13 (Fall 1998): 22-25. <https://accessmagazine.org/spring-2017/the-hidden-cost-of-bundled-parking/>. Accessed February 10, 2023.

³⁴ Millard-Ball, Adam, Jeremy West, Nazanin Rezaei, and Garima Desai. “What Do Residential Lotteries Show Us about Transportation Choices?” *Urban Studies* 59, no. 2 (February 2022): 434–52. <https://doi.org/10.1177/0042098021995139>. Accessed February 10, 2023.

³⁵ Source: 2019 American Community Survey 5-year Estimates Subject Tables (ID #S0801)

increase walking, cycling, carpooling and transit further, as residents will be able to save money by renting or buying fewer parking spaces.

Figure 5 More On-Site Parking Induces More Automobile Ownership

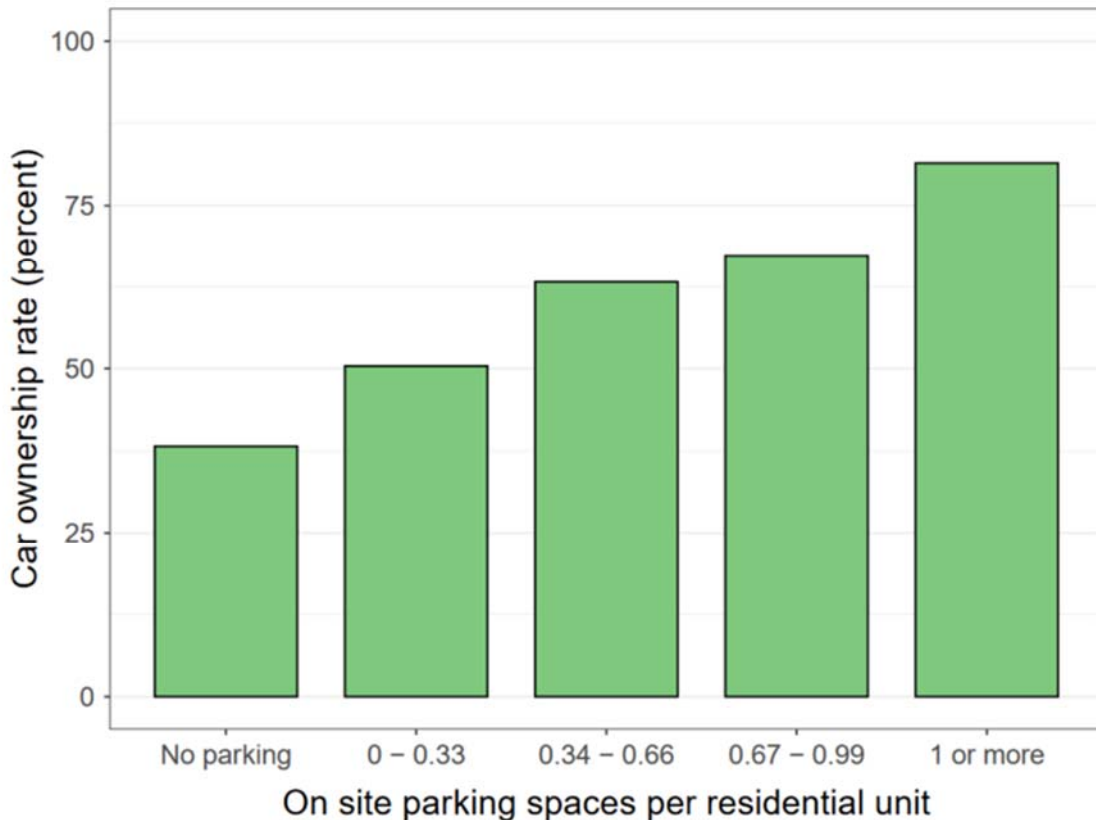


Image: Millard-Ball, West, Rezaei and Desai. Used with permission.

Minimum parking mandates discourage shared parking and efficient use of parking.

Albany’s basic parking minimums are set high enough to ensure that developments that comply with them maintain enough on-site parking to satisfy the demand for free parking. This reduces property owners’ incentive to share parking. It’s hard to make money renting out your excess parking if parking on nearby streets is free and most other property owners have abundant free parking. If there’s no money in it, most people won’t do it.

For the same reasons, minimum parking mandates reduce residents’ and customers’ incentives to share parking or use it more efficiently. Why rent parking from someone else, or replace an individual car with carsharing, if the cost of parking has been bundled into your apartment’s rent and you can’t save money by renting fewer on-site spaces?

Albany’s zoning ordinance does provide a process by which new developments can build fewer on-site spaces and instead share parking with neighboring properties, but this process can be time-consuming and the outcome uncertain. For developers and businesses, time is money, so many are likely to comply with standard minimum parking regulations, instead of attempting to gain permission to share parking.

By their very nature, Albany’s minimum parking regulations undermine the City’s adopted goal of strongly encouraging shared parking and the efficient use of parking.

Minimum parking mandates undermine local sustainability objectives. Because minimum parking mandates increase automobile ownership and use, they also increase air and water pollution. Requiring people to pave more land than they would voluntarily choose to also increases the urban heat island effects, stormwater runoff problems, and water pollution created by parking lots and garages. Minimum parking mandates therefore hamper progress toward the City's goals of adopting code requirements that contribute to local sustainability objectives and achieving more sustainable development.

Minimum parking regulations tend to result in site plans dominated by lots and garages. Many of Albany's basic minimum parking standards (i.e., those that apply outside the Solano Commercial and San Pablo Commercial districts) require more than one square foot of asphalt for every square foot of building space. For community assembly halls, clubs, lodges, funeral homes, religious institutions and restaurants, the basic standard requires more than three square feet of asphalt for every one square foot of built space. When more spaces are required than individuals would supply voluntarily, it's harder to hide them. Albany's current code thus undermines its goal of avoiding site plans dominated by parking.

Minimum parking mandates discourage carsharing and bikesharing. Minimum parking regulations make parking a required purchase. As described above, this increases the number of people who will purchase their own individual car. Once a person owns a car, they are far less likely to use carsharing or bikesharing. Minimum parking mandates thus work at cross purposes to Albany's goal of supporting carsharing programs. By contrast, when parking is an optional amenity, people can save on the high cost of buying or renting parking by relying on carsharing.

Minimum parking mandates are not consistent with national best practices. Minimum parking requirements are no longer supported by many professional planning and engineering organizations. For example, in a recent editorial, Institute of Transportation Engineers International President Bruce Belmore urged cities to, "Eliminate mandatory minimum parking requirements".³⁶ Similarly, the California Chapter of the American Planning Association endorsed Assembly Bill 2097, which removes most minimum parking requirements near transit. It appears that current code requirements no longer advance Albany's goal of adopting commercial parking requirements that are consistent with national best practices.

Requirements for accessible & electric vehicle charging spaces

Assembly Bill 2097 allows cities and counties to continue requiring accessible spaces and "electric vehicle supply equipment installed parking spaces" (EV charging spaces). Currently, Albany's requirements for these types of spaces are based upon the overall number of parking spaces supplied at a new development. If Albany removes minimum parking regulations, but retains the City's existing requirements for accessible and EV charging spaces, then any development that voluntarily supplies parking will be required to set aside an appropriate share of those spaces for accessible parking and EV charging.

This is the course that has been adopted by most cities that have removed minimum parking regulations, including Alameda, Emeryville, San Francisco, and San Jose. However, Albany could theoretically begin requiring accessible spaces and EV charging spaces even at developments

³⁶ Belmore, Bruce. "Rethinking Parking Minimums." *ITE Journal* (February 2019).
[Http://www.nxtbook.com/ygsreprints/ITE/G103582_ITE_February2019/](http://www.nxtbook.com/ygsreprints/ITE/G103582_ITE_February2019/). Accessed February 10, 2023.

that would otherwise be car-free. This could improve accessibility and promote electric cars, but has significant drawbacks as well.

For people with disabilities, the burdens imposed by minimum parking regulations can be acute. That's because people with disabilities are less likely to drive. Nationwide, only about 65 percent of people with disabilities drive a car, compared to 88 percent of nondisabled persons.³⁷ Blind people, and others who cannot drive, often live in urban neighborhoods where they can meet many of their daily needs on foot, on public transit, or via short taxi rides. So, in many city neighborhoods, fewer than half of people with disabilities drive.

Minimum parking regulations act like a matching grant program. The high cost of complying with them raises rents for everyone. A person can benefit from the required parking if the person is physically and mentally capable of obtaining a driver's license and wealthy enough to purchase, insure, fuel, and maintain an automobile. If they cannot, they can't benefit. Should blind people be required to pay for parking spaces they do not need and cannot use? We suggest that they shouldn't.

We recommend that Albany maintain its existing formulas for requiring accessible parking spaces and EV charging spaces. This will ensure that at any development that provides parking, an appropriate share is set aside for these needs. However, it will also allow the development of buildings without on-site parking. Based on the experience in other cities, only a small proportion of developers will choose this option, but it will allow the development of buildings targeted for niche markets of people who cannot afford or choose not to own a car (e.g., blind people, people with developmental disabilities, many students, and other low-income households). It will also allow for buildings that make use of parking on nearby sites. We also recommend that as part of the development approval process for buildings without on-site parking, the City consider routinely restriping one or more adjacent curb spaces as accessible spaces.

Conclusion

Minimum parking mandates have both pros and cons. In some cities, they have been effective in preventing parking spillover problems. In Albany, however, state laws, neighboring cities' policies, and parts of Albany's own code, limit the ability of minimum parking regulations to accomplish this goal. Minimum parking regulations also work at cross purposes to many of Albany's adopted goals, policies and implementing actions.

The option of doing the minimum required by state law to comply with AB 2097 has some advantages. It would make the zoning code consistent with state law, providing clarity for policymakers, City staff and applicants. In a few areas, it may reduce or postpone the need to manage curb parking. However, this option still removes most minimum parking requirements in most of Albany. AB2097 applies to the vast majority of the City, with the exception of the racetrack and areas west of I-80, Upper Solano, and the R-1 neighborhood on the east side of town. The R-1 zoned properties often have garages. Under state law, residents are permitted to convert these into accessory dwelling units without replacing the parking. Other residents likely use garages for storage or workshops. Existing commercial buildings along Upper Solano often have no on-site parking. The City's existing Blended Commercial Parking Rate for these buildings

³⁷ Siegman, Patrick. "Should Blind People in Berkeley Be Required to Buy Parking Spaces?". *Streetsblog California* (January 25, 2021). <https://cal.streetsblog.org/2021/01/25/should-blind-people-in-berkeley-be-required-to-buy-parking-spaces/>. Accessed February 10, 2023.

applies a single parking requirement (1 space per 400 square feet of gross floor area) to all commercial uses except restaurants. This eases changes of use, which is good for reducing vacancies and economic development. However, it also means nearby curbside parking is more likely to require management, since it is possible for a more intense use to replace a less intense one without adding parking. In sum, this option is not likely to be an effective way of preventing spillover parking.

Given all of these considerations, we recommend that the City remove all minimum parking regulations, citywide.

Taking this action is not likely to result in major changes overnight. It takes years for new developments to be planned, designed, approved, financed, and built. In today's climate of high interest rates and falling home prices, Bay Area developers are having trouble obtaining financing and many development projects have been shelved. Moreover, as described in the Background section of this memorandum, in most cities that have removed minimum parking mandates, the vast majority of new projects continue to include parking, and many include as much parking as was previously required.

Eventually, removing minimum parking regulations will very likely require the city to do more to manage curbside parking. This can be accomplished by implementing General Plan Policy T-7.2, which calls for considering "timed parking limits, residential parking permits, parking benefit districts, paid public parking, more stringent parking enforcement, and other methods to address parking in locations where demand exceeds supply during all or part of the day." This strategy is similarly supported by Climate Action and Adaptation Plan Action 1.1.5, described above. To accomplish this, we recommend following up the removal of minimum parking regulations with a citywide curbside parking management plan. Curbside parking management measures, such as pricing and residential permits, have a track record of success in keeping curbside parking readily available. When implemented well, they are often popular, and can raise substantial funding for improving public services in neighborhoods that choose to establish a parking benefit district.

From: [REDACTED]
To: [PLANNING & ZONING COMMISSION](#)
Subject: Comment on P&Z Commission Meeting Item 7.1
Date: Wednesday, March 8, 2023 11:44:58 AM

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P&Z Commission,

I would like to comment on Item 7.1 on tonight's agenda.

The issues being discussed tonight seem simple, hardly require a study session, and certainly shouldn't have required input from two high-priced consultants. City staff need to adopt a DIY approach!

State law trumps local regulations and the city can no longer enforce parking minimums in most of the city. The only decision to be made is whether or not to apply this throughout the city. Here, I think that it's best to remove minimum parking requirements throughout the entire city. This is simpler and avoids potential equity issues.

I want to comment on the several references in the staff report and the consultant's "analysis" to the implementation of a residential parking permit programs as a way to prevent spill over parking from adjacent under parked developments. The consultant, Siegman & Associates, described the use of parking permits to manage off-street parking 24 times.

As I have explained several times in the past, residential parking permits will not work in Albany. Parking permit programs typically operate during the day, e.g., 8:00 AM – 7:00 PM. Parking time is restricted for non-permit holders, e.g., a 2-hour limit, during the aforementioned hours. There are no restrictions for permit holders. There are also no restrictions outside the aforementioned hours. Overnight parking is legal, which in terms of the above exemplar means that parking is permitted between 5:00 PM and 8:00 AM. These are of course the exact hours where parking is very limited on many Albany streets (e.g., streets adjacent to SPA). Parking is typically sufficient on these residential streets during the day, when the permit requirements would apply.

Albany would need to greatly extend the hours of enforcement or adopt 24/7 parking permit enforcement for a residential parking permit program to be effective. I don't believe that any other cities have done this.

A residential parking permit program is not going to have much impact in Albany and staff, the ever-present consultants, and the commissioners should stop suggesting that it will.

Clay Larson

Sent from [Mail](#) for Windows

From: [REDACTED]
To: [PLANNING & ZONING COMMISSION](#)
Subject: public comment for item 7-1 Study Session on Implementation of Assembly Bill 2097 Regarding Off Street Parking Requirements
Date: Tuesday, March 7, 2023 3:43:44 PM

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I am writing in favor of option #2* eliminating minimum parking requirements citywide.

It was shocking for me to see that the city charges homeowners thousands of dollars to have the planning review regarding parking and yet in 10+ years no request for an exemption to the parking requirement has ever been rejected! Talk about needless government bureaucracy! That does direct harm to the public.

From the staff report:

AMC Section 20.80.040 specifies procedures to allow exceptions to required parking for both residential and commercial uses. For smaller parking waiver requests, applicants are required to pay a fee of \$1,454 for administrative review. Where the Zoning Ordinance requires City staff to conduct a parking survey, a larger fee of \$2,284 is required. Generally, the City processes approximately 20 waivers per year and therefore collects roughly \$20,000. These revenues go into the General Fund and are used to cover City staff time to process the parking exception requests. The parking exceptions are consistently granted; none have been denied in the past 10+ years.

As an equity matter, I routinely see P&Z Commission meetings spend 30 mins discussing for a R-1 remodel the location of 1 window, the raising of a home 1 story, the elimination of 1 parking space or waiver of a requirement to create 1 additional parking space, sight lines, etc. while in my neighborhood along SPA property owners can build by right up to 9 stories almost straight up with zero parking spaces with 100s of bedroom windows facing off, the sun blackened out for half the day, etc.

I have been pointing out the inequity of how the city reviews in depth R-1 remodels vs. by-right development on SPA and the parking exception data presented above is eye-opening and I think requires the P&Z Commission to agendize soon the elimination of other planning reviews that never get rejected - eg. 2nd story additions, roof line changes, etc., etc.

Elimination of parking requirements is often based on proximity to transit. As the well-written staff report and the well-written and thorough memo show, nearly every resident in Albany is a very short walk to shops and transit.

Taken together, I hope the commission will vote to approve option #2, the removal all minimum parking requirements.

Bryan Marten
Resident, 600 block Adams St

P.S. Option #2 in the staff report is this:

2. Remove all minimum parking requirements, citywide. (Except for Waterfront zoning district, where amendments require voter approval.) This approach would simplify parking regulations, eliminate the existing waiver process and payment (which is currently in use) and remove the in-lieu fee payment option (which is not being used).