

CITY OF SAN MARINO
REVISED
SPECIAL MEETING AGENDA

Gretchen Shepherd Romey, Mayor
Ken Ude, Vice Mayor
Steven W. Huang, DDS, Council Member
Susan Jakubowski, Council Member
Steve Talt, Council Member
Marcella Marlowe, Ph.D., City Manager



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(626) 300-0700 Phone
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City Hall Council Chamber
2200 Huntington Drive
San Marino, CA 91108

**SPECIAL MEETING
OF THE SAN MARINO CITY COUNCIL
FRIDAY, JANUARY 24, 2020 AT 8:30 A.M.
EMERGENCY OPERATIONS CENTER (EOC)
2200 HUNTINGTON DRIVE
SAN MARINO, CALIFORNIA 91108**

The City of San Marino appreciates your attendance. Citizens' interest provides the Council with valuable information regarding issues of the community.

Regular Meetings are held on the 2nd Wednesday of every month at 6:00 p.m. Typically, Adjourned Meetings are held on the last Friday of every month at 8:30 a.m.

In compliance with the American Disabilities Act, any person with a disability who requires a modification or accommodation in order to participate in a meeting should contact the City Clerk's Office at (626) 300-0705 prior to the meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Council Member Huang, Council Member Jakubowski, Council Member Talt, Vice Mayor Ude, and Mayor Shepherd Romey

POSTING OF AGENDA

The special meeting agenda is posted 24 hours prior to each special meeting at the following locations: City Hall, 2200 Huntington Drive, the Crowell Public Library, 1890 Huntington Drive, and the Recreation Department, 1560 Pasqualito Drive. The special meeting agenda is also posted on the City's website: <http://www.cityofsanmarino.org>.

PUBLIC COMMENTS

The City welcomes public input. Members of the public may address the City Council by completing a public comment card and giving it to the City Clerk prior to the meeting. At this time, the public may address the City Council only on items on the agenda pursuant to Government Code Section 54956. Pursuant to state law, the City Council may not discuss or take action on issues not on the meeting agenda (Government Code Section 54954.2). The Mayor reserves the right to place limits on duration of comments. Staff may be asked to follow up on such items.

NEW BUSINESS**I. AUTHORIZATION OF THE SUBMITTAL OF COMMENT LETTER REGARDING SENATE BILL 50 (SB 50)**

Recommendation: Staff recommends that the City Council authorize the Mayor to sign the attached opposition letter opposing SB50 and send the letter to Senator Anthony J. Portantino.

CLOSED SESSION

The City Council will recess to closed session to discuss:

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957):

Title: City Manager

RECONVENE TO OPEN SESSION**CLOSED SESSION REPORT****ADJOURNMENT**

Dated: January 23, 2020

Posted: January 23, 2020

EVA HETER
CITY CLERK



City of San Marino

Staff Report

Gretchen Shepherd Romey, Mayor

Ken Ude, Vice Mayor

Steven W. Huang, DDS, Council Member

Susan Jakubowski, Council Member

Steve Talt, Council Member

TO: Mayor and City Council
FROM: Marcella Marlowe, Ph.D., City Manager
BY: Aldo Cervantes, Director of Planning and Building
DATE: January 24, 2020

**SUBJECT: AUTHORIZATION OF THE SUBMITTAL OF COMMENT LETTER
REGARDING SENATE BILL 50 (SB 50)**

STRATEGIC PLAN CRITICAL SUCCESS FACTORS

- Engaged and Connected Residents
- Beautiful, Preserved, Single-Family Neighborhoods

BACKGROUND

In 2018, Senator Scott Weiner introduced a controversial housing bill known as Senate Bill 50 (SB 50). The intent of the legislation is to increase housing density around transit areas, which is not limited to light rail. Transit areas can also include bus stops with high frequency uses. The bill was shelved in May of 2019 due to criticisms regarding the impacts of the bill.

DISCUSSION

The current language in the bill aims to upzone areas surrounding transit routes as well as change the character of single-family neighborhoods. Areas that are zoned for single-family residential would be “upzoned” to allow fourplexes, while areas near transit stops would be allowed to build multi-family apartment complexes. One of the amendments to the bill from its original draft includes a two year time frame that allows local jurisdictions to develop their own plans to increase housing development while imposing their own development standards. Although the bill provides for this flexibility, the development standards adopted by the City must include measures that increase density in a manner that meets the requirement of SB 50.

Next Step

Despite opposition from the City of San Francisco, the City of Los Angeles, and Housing Advocates, the California Legislature expresses its desire to advance the bill. In order for the bill to advance through the system, the bill must first pass a Senate vote by the end of this month. If the bill is approved by the Senate, the Assembly must approve the bill by the end of August.

With the time line listed above, it is critical that the City provide the opposition letter to the office of Senator Anthony Portantino before the end of the month.

FISCAL IMPACT & PROCUREMENT REVIEW

There is no direct fiscal impact to this action.

LEGAL REVIEW

The City Attorney's office has reviewed and approved as to form.

RECOMMENDATION

It is recommended that the City Council review the draft comment letter, and provide comments and revisions. If the City Council concurs with staff's recommendation, an appropriate motion would be:

"I move to authorize the Mayor to sign the attached opposition letter opposing SB50 and send the letter to Senator Anthony J. Portantino."

ATTACHMENTS

1. Draft comment letter
2. Senate Bill 50 Text



January 15, 2020

Senator Anthony J. Portantino
State Capitol, Room 3086
Sacramento, CA 95814

SUBJECT: OPPOSITION TO SENATE BILL 50 (WEINER)

Dear Senator Portantino:

It has been brought to the attention of the City Council of the City of San Marino that the State Senate may act on Senate Bill 50 as early as this month. As I understand it Assembly member Weiner is proposing amendments, which if approved, will be extremely detrimental to the future character of San Marino's and other California cities' single-family residential neighborhoods. Specifically, the proposed bill will increase the density of our single-family neighborhoods by allowing owners of properties to build up to four residential units on a single-family lot. Doing so will essentially negate our long standing single-family zoning and all other development standards that the City finds critical to maintain the appearance of our City neighborhoods, many of which include historic homes that were designed by renowned architects.

With the inclusion of such requirement, the City will experience an increase in traffic on Huntington Drive and throughout our residential neighborhoods in San Marino! Moreover, the addition of that many new residents and dwellings undoubtedly will have an adverse impact upon the aging water and sewer lines that serve single family neighborhoods.

As stated above, to relax the standards even further will make it easier to eliminate the R-1 Zone altogether in not only our City but in all California cities. What will become of the American dream of owning a single-family home in a "single-family" residential neighborhood?

The City of San Marino and other cities up and down the state need your help. This bill is detrimental to the current quality of life of millions of Californians and should be strongly opposed. For all of these reasons, the City Council took action to authorize me, as the Mayor of the City, to sign this letter on behalf of the entire City Council and all of the City's residents.

Should you have any questions regarding the above mentioned items, please feel free to contact the City's Planning and Building Director, Aldo Cervantes, at (626) 300-0710 or by email at acervantes@cityofsanmarino.org.

Sincerely,

GRETCHEN SHEPHERD ROMNEY
MAYOR, CITY OF SAN MARINO



AMENDED IN SENATE JANUARY 6, 2020

AMENDED IN SENATE JUNE 4, 2019

AMENDED IN SENATE MAY 1, 2019

AMENDED IN SENATE MARCH 11, 2019

SENATE BILL

No. 50

Introduced by Senator Wiener

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

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

December 3, 2018

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

This bill would require a local agency to notify the development proponent in writing if the local agency determines that the development conflicts with any of the requirements provided for streamlined ministerial approval within 60 days of the submission of the development to the local agency. If the local agency does not notify the development proponent within this time period, the development would be deemed to comply with those requirements. The bill would limit the authority of a local agency to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that the approval of a project under these provisions expires automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would provide that approval pursuant to its provisions would remain valid for 3 years and remain valid thereafter, so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would prohibit a local agency from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions.

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

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a

significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

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

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

This bill, on or after January 1, 2023, would require a specified city, county, or city and county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development, as defined, that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project, as those terms are defined; the site does not contain, or has not contained, housing occupied by tenants or accommodations withdrawn from rent or lease in accordance with specified law within specified time periods; and the residential development complies with specified additional requirements under existing law. The bill would impose additional requirements on a residential development located within a county with a population equal to or less than 600,000. The bill would require that a residential development within a county with a population greater than 600,000 that is eligible for an equitable communities incentive receive, upon request, waivers from maximum controls on density; minimum automobile parking requirements greater than 0.5 parking spots per unit; and specified additional waivers if the residential development is located within a ½-mile or ¼-mile radius of a major transit stop, as defined. For a residential development within a county with a population equal to or less than 600,000, the bill would instead require that the incentive provide waivers from maximum controls on density, subject to certain limitations; maximum height limitations less than or equal to one story, or 15 feet, above the highest allowable height

for mixed use or residential use; certain requirements governing the size of the parcel and the area that the building may occupy; and minimum automobile parking requirements, as provided. The bill would require a local government to grant an equitable communities incentive unless it makes a specified finding regarding the effects of the incentive on any real property or historic district that is listed on a federal or state register of historical resources. The bill would authorize a local government to modify or expand the terms of an equitable communities incentive, provided that the equitable communities incentive is consistent with these provisions.

The bill would delay implementation of these provisions in potentially sensitive communities, as defined, until July 1, 2023. The bill would further delay implementation of these provisions in sensitive communities, determined as provided, until January 1, 2026, unless the city or county in which the area is located votes to make these provisions applicable after a specified petition and public hearing process. On and after January 1, 2026, the bill would apply these provisions to a sensitive community unless the city or county adopts a community plan for the area that meets certain requirements.

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

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

after January 1, 2026, the bill would apply these provisions to a sensitive community unless the city or county adopts a community plan for the area that meets certain requirements.

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

This bill would additionally provide that the receipt of an equitable communities incentive is not a valid basis on which to find a proposed housing development is inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision of that act.

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

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

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

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

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

- 1 SECTION 1.—Section 65589.5 of the Government Code is
- 2 amended to read:
- 3 65589.5.—(a) (1) The Legislature finds and declares all of the
- 4 following:
- 5 (A) The lack of housing, including emergency shelters, is a
- 6 critical problem that threatens the economic, environmental, and
- 7 social quality of life in California.
- 8 (B) California housing has become the most expensive in the
- 9 nation. The excessive cost of the state’s housing supply is partially

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) Residential units only.

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

19 (C) Transitional housing or supportive housing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (A) Residential units only.

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

31 (C) Transitional housing or supportive housing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (K) Lands under conservation easement.

27 (3)

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

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

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

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

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

7 ~~(4)~~

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

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

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

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

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

21 (B) If the project is a conversion of an existing structure, the
 22 conversion shall not require substantial exterior alteration. For the
 23 purposes of this subparagraph, a project requires "substantial
 24 exterior alteration" if the project would require either of the
 25 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30
 31 CHAPTER 4.35. EQUITABLE COMMUNITIES INCENTIVES

32
 33 65918.50. For purposes of this chapter:

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

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

40 (c) "FAR" means floor area ratio.

1 (d) “High-quality bus corridor” means a corridor with fixed
2 route bus service that meets all of the following criteria:

3 (1) It has average service intervals for each line and in each
4 direction of no more than 10 minutes during the three peak hours
5 between 6 a.m. to 10 a.m., inclusive, and the three peak hours
6 between 3 p.m. to 7 p.m., inclusive, on Monday through Friday.

7 (2) It has average service intervals for each line and in each
8 direction of no more than 20 minutes during the hours of 6 a.m.
9 to 10 p.m., inclusive, on Monday through Friday.

10 (3) It has average service intervals for each line and in each
11 direction of no more than 30 minutes during the hours of 8 a.m.
12 to 10 p.m., inclusive, on Saturday and Sunday.

13 (4) It has met the criteria specified in paragraphs (1) to (3),
14 inclusive, for the five years preceding the date that a development
15 proponent submits an application for approval of a residential
16 development.

17 (e) (1) “Jobs-rich area” means an area identified by the
18 Department of Housing and Community Development in
19 consultation with the Office of Planning and Research that is high
20 opportunity and either is jobs rich or would enable shorter commute
21 distances based on whether, in a regional analysis, the tract meets
22 both of the following:

23 (A) The tract is high opportunity, meaning its characteristics
24 are associated with positive educational and economic outcomes
25 for households of all income levels residing in the tract.

26 (B) The tract meets either of the following criteria:

27 (i) New housing sited in the tract would enable residents to live
28 near more jobs than is typical for tracts in the region.

29 (ii) New housing sited in the tract would enable shorter commute
30 distances for residents, relative to existing commute patterns and
31 jobs-housing fit.

32 (2) The Department of Housing and Community Development
33 shall, commencing on January 1, ~~2020~~, 2021, publish and update,
34 every five years thereafter, a map of the state showing the areas
35 identified by the department as “jobs-rich areas.”

36 (f) “Job-rich housing project” means a residential development
37 within a jobs-rich area. A residential development shall be deemed
38 to be within a jobs-rich area if both of the following apply:

39 (1) All parcels within the project have no more than 25 percent
40 of their area outside of the jobs-rich area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) A single-room occupancy unit.

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

12 (4) A residential motel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (B)

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

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

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

16 (C)

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

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

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

25 (e) ~~If the residential development is located within a county that~~
26 ~~has a population equal to or less than 600,000, based on the most~~
27 ~~recent United States Census Bureau data, the residential~~
28 ~~development satisfies all of the following additional requirements:~~

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

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

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

35 (B) ~~A special flood hazard area subject to inundation by the 1~~
36 ~~percent annual chance flood (100-year flood) as determined by~~
37 ~~the Federal Emergency Management Agency in any official maps~~
38 ~~published by the Federal Emergency Management Agency. If a~~
39 ~~development proponent is able to satisfy all applicable federal~~
40 ~~qualifying criteria in order to provide that the site satisfies this~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Project Size	Inclusionary Requirement
21 21–200 units	22 15% lower income; or 23 8% very low income; or 24 6% extremely low income
25 201–350 units	26 17% lower income; or 27 10% very low income; or 28 8% extremely low income
29 351 or more units	30 25% lower income; or 31 15% very low income; or 32 11% extremely low income

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

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

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

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

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

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

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

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

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

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

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

36 ~~(e)~~

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

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

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

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

9 (f)

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

19 (g)

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

25 (h)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~(A)~~

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

37 ~~(B)~~

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

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

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

8 ~~(A)~~

9 ~~(1) Maximum height requirements less than 45 feet.~~

10 ~~(B)~~

11 ~~(2) Any requirement governing the relationship between the~~
 12 ~~size of the parcel and the area that the building may occupy that~~
 13 ~~would restrict the structure to a FAR of less than 2.5.~~

14 ~~(C)~~

15 ~~(3) Notwithstanding subparagraph (B) of paragraph (1),~~
 16 ~~paragraph (2) of subdivision (a), any minimum automobile parking~~
 17 ~~requirement.~~

18 ~~(3) An eligible applicant proposing a~~

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

25 ~~(A)~~

26 ~~(1) Maximum height requirements less than 55 feet.~~

27 ~~(B)~~

28 ~~(2) Any requirement governing the relationship between the~~
 29 ~~size of the parcel and the area that the building may occupy that~~
 30 ~~would restrict the structure to a FAR of less than 3.25.~~

31 ~~(C)~~

32 ~~(3) Notwithstanding paragraph (2) of subdivision (a), any~~
 33 ~~minimum automobile parking requirement.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (ii) The site meets Federal Emergency Management Agency
35 requirements necessary to meet minimum flood plain management
36 criteria of the National Flood Insurance Program pursuant to Part
37 59 (commencing with Section 59.1) and Part 60 (commencing with
38 Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code
39 of Federal Regulations.

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

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

9 (c) *Notwithstanding any other law, a project that qualifies for*
10 *an equitable communities incentive may also apply for a density*
11 *bonus, incentives or concessions, and parking ratios in accordance*
12 *with subdivision (b) of Section 65915. To calculate a density bonus*
13 *for a project that receives an equitable communities incentive, the*
14 *“otherwise maximum allowable gross residential density,” as*
15 *described in subdivision (f) of Section 65915, shall be equal to the*
16 *proposed number of units in, or the proposed square footage of,*
17 *the residential development after applying the equitable*
18 *communities incentive received pursuant to this chapter. In no*
19 *case may a city, county, or city and county apply any development*
20 *standard that will have the effect of physically precluding the*
21 *construction of a development meeting the criteria of this chapter*
22 *and subdivision (b) of Section 65915 at the unit count or square*
23 *footage or with the concessions or incentives permitted by this*
24 *chapter and as may be increased under Section 65915 in*
25 *accordance with this subdivision, but no additional waivers or*
26 *reductions of development standards, as described in subdivision*
27 *(e) of Section 65915 shall be permitted.*

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

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

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

6 ~~65918.54.~~

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

12 ~~65918.55.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

O