

AMENDED IN ASSEMBLY MAY 22, 2020

AMENDED IN ASSEMBLY MAY 11, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2345**

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**Introduced by Assembly Members Gonzalez and Chiu**

February 18, 2020

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An act to amend ~~Section~~ *Sections 65400 and 65915* of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2345, as amended, Gonzalez. Planning and zoning: density bonuses: *annual report*: affordable housing.

~~Existing~~

(1) *The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided.*

*This bill would require that the annual report include specified information regarding density bonuses granted in accordance with specified law.*

(2) *Existing law, known as the Density Bonus Law, requires a ~~city or county~~ city, county, or city and county to provide a developer that proposes a housing development within the jurisdictional boundaries*

of that ~~city or county~~ *city, county, or city and county* 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 agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Existing law provides for the calculation of the amount of density bonus for each type of housing development that qualifies under these provisions. Existing law specifies the number of incentives or concessions that an applicant can receive. Existing law ~~specifies~~ *requires* that an applicant ~~shall~~ receive 3 incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons or families of moderate income in a common interest development. Existing law ~~specifies~~ *requires* that an applicant ~~shall~~ receive 4 incentives or concessions for projects in which 100% of the total units are for lower income households, as specified.

This bill, instead, would authorize an applicant to receive 3 incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 12% of the total units for very low income households, or at least 30% for persons or families of moderate income in a common interest development. The bill would also authorize an applicant to receive 4 and 5 incentives or concessions, as applicable, for projects in which greater percentages of the total units are for lower income households, very low income households, or for persons or families of moderate income in a common interest development, as specified. The bill would also authorize an applicant to receive 6 incentives or concessions for projects in which 100% of the total units are for lower income households, as specified.

Existing law provides that a housing development that receives a waiver from any maximum controls on density, as specified, ~~shall not be~~ *is not eligible for, and shall not receive, prohibits such a development from receiving,* a waiver or reduction of development standards.

This bill, instead, would provide that a housing development that receives a waiver from any maximum controls on density, ~~shall only be~~ *is only* eligible for a specified waiver or reduction of development standards, unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

Existing law specifies that the density bonus, or the amount of the density increase over the otherwise allowable gross residential density,

to which an applicant is entitled varies according to the amount by which the percentage of affordable housing units in a development exceeds a specified base percentage for units for lower income households, very low income households, senior citizens, persons and families of moderate income, transitional foster youth, or lower income students, as specified. Existing law authorizes a maximum density bonus of 35% for a housing development in which 20% or more of the total units are for lower income households. Existing law authorizes a maximum density bonus of 35% for a housing development in which 11% or more of the total units are for very low income households. Existing law authorizes a maximum density bonus of 35% for housing developments in which 40% or more of the total units are for persons and families of moderate income.

This bill would include a maximum density bonus for a housing development in which 16% of the total units are for lower income households and would increase the maximum density bonus, to up to 50%, for construction of a housing development in which a greater percentage than that described above of total units are for lower income households, very low income households, and persons and families of moderate income, as specified.

By adding to the duties of local planning officials with respect to the award of density bonuses, this bill would impose a state-mandated local program.

~~Existing law specifies that,~~

(3) *Existing law prohibits*, except as provided, upon the request of a developer, a city, county, or city and county ~~shall not require from requiring~~ a vehicular parking ratio for a development that qualifies for a density bonus that exceeds specified amounts of onsite parking per bedroom. Existing law also specifies the parking ratios applicable to a development that include a maximum percentage of low-income or very low income units, that is located within ½ mile of a transit stop, and that provides unobstructed access to the transit stop from the development.

This bill would decrease the maximum ratio of vehicular parking for developments with 2 to 3 bedrooms, as specified. This bill would define the term “natural or constructed impediments” for purposes of determining whether a development has unobstructed access to a transit stop. The bill would ~~specify require~~ that the measurement of the distance of a development from a transit stop ~~shall~~ be measured from any point on the property of the proposed development to any point on the property

where the transit stop is located. The bill would authorize a developer to request that a city, county, or city and county not impose vehicular parking standards if the development meets specified ~~requirements~~, *affordability requirements and either (A) provides unobstructed access to a major transit stop, as defined, or (B) is a for-rent housing development for individuals who are 62 years of age or older, and older that will have either paratransit service or unobstructed access to a fixed bus route, as specified.*

*(4) Existing law requires a city, county, or city and county to adopt an ordinance that specifies how it will implement the Density Bonus Law, but provides that failure to adopt an ordinance does not relieve a city, county, or city and county from complying with that law. Existing law also authorizes a city, county, or city and county, if permitted by local ordinance, to grant a density bonus greater than what is described in the Density Bonus Law or to grant a proportionately lower density bonus than what is required by the Density Bonus Law for developments that do not meet the requirements of that law.*

*This bill, notwithstanding any other law, would provide that a city, county, or city and county that has adopted an ordinance pursuant to the Density Bonus Law that, as of the date immediately prior to the effective date of bill, provides for density bonuses that exceed the density bonuses required by the Density Bonus Law is not required to amend or otherwise update its ordinance to comply with the amendments made by this bill.*

*(5) By adding to the duties of local planning officials with respect to preparing and submitting the above-described annual report to the Department of Housing and Community Development and awarding density bonuses, this bill would impose a state-mandated local program.*

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

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

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

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

1 SECTION 1. Section 65400 of the Government Code is  
 2 amended to read:

1 65400. (a) After the legislative body has adopted all or part  
2 of a general plan, the planning agency shall do both of the  
3 following:

4 (1) Investigate and make recommendations to the legislative  
5 body regarding reasonable and practical means for implementing  
6 the general plan or element of the general plan, so that it will serve  
7 as an effective guide for orderly growth and development,  
8 preservation and conservation of open-space land and natural  
9 resources, and the efficient expenditure of public funds relating to  
10 the subjects addressed in the general plan.

11 (2) Provide by April 1 of each year an annual report to the  
12 legislative body, the Office of Planning and Research, and the  
13 Department of Housing and Community Development that includes  
14 all of the following:

15 (A) The status of the plan and progress in its implementation.

16 (B) The progress in meeting its share of regional housing needs  
17 determined pursuant to Section 65584 and local efforts to remove  
18 governmental constraints to the maintenance, improvement, and  
19 development of housing pursuant to paragraph (3) of subdivision  
20 (c) of Section 65583.

21 The housing element portion of the annual report, as required  
22 by this paragraph, shall be prepared through the use of standards,  
23 forms, and definitions adopted by the Department of Housing and  
24 Community Development. The department may review, adopt,  
25 amend, and repeal the standards, forms, or definitions, to  
26 implement this article. Any standards, forms, or definitions adopted  
27 to implement this article shall not be subject to Chapter 3.5  
28 (commencing with Section 11340) of Part 1 of Division 3 of Title  
29 2. Before and after adoption of the forms, the housing element  
30 portion of the annual report shall include a section that describes  
31 the actions taken by the local government towards completion of  
32 the programs and status of the local government's compliance with  
33 the deadlines in its housing element. That report shall be considered  
34 at an annual public meeting before the legislative body where  
35 members of the public shall be allowed to provide oral testimony  
36 and written comments.

37 The report may include the number of units that have been  
38 substantially rehabilitated, converted from nonaffordable to  
39 affordable by acquisition, and preserved consistent with the  
40 standards set forth in paragraph (2) of subdivision (c) of Section

1 65583.1. The report shall document how the units meet the  
2 standards set forth in that subdivision.

3 (C) The number of housing development applications received  
4 in the prior year.

5 (D) The number of units included in all development  
6 applications in the prior year.

7 (E) The number of units approved and disapproved in the prior  
8 year.

9 (F) The degree to which its approved general plan complies  
10 with the guidelines developed and adopted pursuant to Section  
11 65040.2 and the date of the last revision to the general plan.

12 (G) A listing of sites rezoned to accommodate that portion of  
13 the city's or county's share of the regional housing need for each  
14 income level that could not be accommodated on sites identified  
15 in the inventory required by paragraph (1) of subdivision (c) of  
16 Section 65583 and Section 65584.09. The listing of sites shall also  
17 include any additional sites that may have been required to be  
18 identified by Section 65863.

19 (H) The number of net new units of housing, including both  
20 rental housing and for-sale housing and any units that the County  
21 of Napa or the City of Napa may report pursuant to an agreement  
22 entered into pursuant to Section 65584.08, that have been issued  
23 a completed entitlement, a building permit, or a certificate of  
24 occupancy, thus far in the housing element cycle, and the income  
25 category, by area median income category, that each unit of  
26 housing satisfies. That production report shall, for each income  
27 category described in this subparagraph, distinguish between the  
28 number of rental housing units and the number of for-sale units  
29 that satisfy each income category. The production report shall  
30 include, for each entitlement, building permit, or certificate of  
31 occupancy, a unique site identifier that must include the assessor's  
32 parcel number, but may include street address, or other identifiers.

33 (I) The number of applications submitted pursuant to subdivision  
34 (a) of Section 65913.4, the location and the total number of  
35 developments approved pursuant to subdivision (b) of Section  
36 65913.4, the total number of building permits issued pursuant to  
37 subdivision (b) of Section 65913.4, the total number of units  
38 including both rental housing and for-sale housing by area median  
39 income category constructed using the process provided for in  
40 subdivision (b) of Section 65913.4.

1 (J) If the city or county has received funding pursuant to the  
2 Local Government Planning Support Grants Program (Chapter 3.1  
3 (commencing with Section 50515) of Part 2 of Division 31 of the  
4 Health and Safety Code), the information required pursuant to  
5 subdivision (a) of Section 50515.04 of the Health and Safety Code.

6 (K) *The following information with respect to density bonuses*  
7 *granted in accordance with Section 65915:*

8 (i) *The number of density bonus applications received by the*  
9 *city or county.*

10 (ii) *The number of density bonus applications approved by the*  
11 *city or county.*

12 (iii) *Data from a sample of projects, selected by the planning*  
13 *agency, approved to receive a density bonus from the city or*  
14 *county, including, but not limited to, the percentage of density*  
15 *bonus received, the percentage of affordable units in the project,*  
16 *the number of other incentives or concessions granted to the*  
17 *project, and any waiver or reduction of parking standards for the*  
18 *project.*

19 ~~(K)~~

20 (L) The Department of Housing and Community Development  
21 shall post a report submitted pursuant to this paragraph on its  
22 internet website within a reasonable time of receiving the report.

23 (b) If a court finds, upon a motion to that effect, that a city,  
24 county, or city and county failed to submit, within 60 days of the  
25 deadline established in this section, the housing element portion  
26 of the report required pursuant to subparagraph (B) of paragraph  
27 (2) of subdivision (a) that substantially complies with the  
28 requirements of this section, the court shall issue an order or  
29 judgment compelling compliance with this section within 60 days.  
30 If the city, county, or city and county fails to comply with the  
31 court's order within 60 days, the plaintiff or petitioner may move  
32 for sanctions, and the court may, upon that motion, grant  
33 appropriate sanctions. The court shall retain jurisdiction to ensure  
34 that its order or judgment is carried out. If the court determines  
35 that its order or judgment is not carried out within 60 days, the  
36 court may issue further orders as provided by law to ensure that  
37 the purposes and policies of this section are fulfilled. This  
38 subdivision applies to proceedings initiated on or after the first  
39 day of October following the adoption of forms and definitions by  
40 the Department of Housing and Community Development pursuant

1 to paragraph (2) of subdivision (a), but no sooner than six months  
2 following that adoption.

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 65915 of the Government Code is amended  
5 to read:

6 65915. (a) (1) When an applicant seeks a density bonus for  
7 a housing development within, or for the donation of land for  
8 housing within, the jurisdiction of a city, county, or city and county,  
9 that local government shall comply with this section. A city,  
10 county, or city and county shall adopt an ordinance that specifies  
11 how compliance with this section will be implemented. ~~Failure~~  
12 *Except as otherwise provided in subdivision (s), failure* to adopt  
13 an ordinance shall not relieve a city, county, or city and county  
14 from complying with this section.

15 (2) A local government shall not condition the submission,  
16 review, or approval of an application pursuant to this chapter on  
17 the preparation of an additional report or study that is not otherwise  
18 required by state law, including this section. This subdivision does  
19 not prohibit a local government from requiring an applicant to  
20 provide reasonable documentation to establish eligibility for a  
21 requested density bonus, incentives or concessions, as described  
22 in subdivision (d), waivers or reductions of development standards,  
23 as described in subdivision (e), and parking ratios, as described in  
24 subdivision (p).

25 (3) In order to provide for the expeditious processing of a density  
26 bonus application, the local government shall do all of the  
27 following:

28 (A) Adopt procedures and timelines for processing a density  
29 bonus application.

30 (B) Provide a list of all documents and information required to  
31 be submitted with the density bonus application in order for the  
32 density bonus application to be deemed complete. This list shall  
33 be consistent with this chapter.

34 (C) Notify the applicant for a density bonus whether the  
35 application is complete in a manner consistent with the timelines  
36 specified in Section 65943.

37 (D) (i) If the local government notifies the applicant that the  
38 application is deemed complete pursuant to subparagraph (C),  
39 provide the applicant with a determination as to the following  
40 matters:

1 (I) The amount of density bonus, calculated pursuant to  
2 subdivision (f), for which the applicant is eligible.

3 (II) If the applicant requests a parking ratio pursuant to  
4 subdivision (p), the parking ratio for which the applicant is eligible.

5 (III) If the applicant requests incentives or concessions pursuant  
6 to subdivision (d) or waivers or reductions of development  
7 standards pursuant to subdivision (e), whether the applicant has  
8 provided adequate information for the local government to make  
9 a determination as to those incentives, concessions, or waivers or  
10 reductions of development standards.

11 (ii) Any determination required by this subparagraph shall be  
12 based on the development project at the time the application is  
13 deemed complete. The local government shall adjust the amount  
14 of density bonus and parking ratios awarded pursuant to this section  
15 based on any changes to the project during the course of  
16 development.

17 (b) (1) A city, county, or city and county shall grant one density  
18 bonus, the amount of which shall be as specified in subdivision  
19 (f), and, if requested by the applicant and consistent with the  
20 applicable requirements of this section, incentives or concessions,  
21 as described in subdivision (d), waivers or reductions of  
22 development standards, as described in subdivision (e), and parking  
23 ratios, as described in subdivision (p), when an applicant for a  
24 housing development seeks and agrees to construct a housing  
25 development, excluding any units permitted by the density bonus  
26 awarded pursuant to this section, that will contain at least any one  
27 of the following:

28 (A) Ten percent of the total units of a housing development for  
29 lower income households, as defined in Section 50079.5 of the  
30 Health and Safety Code.

31 (B) Five percent of the total units of a housing development for  
32 very low income households, as defined in Section 50105 of the  
33 Health and Safety Code.

34 (C) A senior citizen housing development, as defined in Sections  
35 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
36 residency based on age requirements for housing for older persons  
37 pursuant to Section 798.76 or 799.5 of the Civil Code.

38 (D) Ten percent of the total dwelling units in a common interest  
39 development, as defined in Section 4100 of the Civil Code, for  
40 persons and families of moderate income, as defined in Section

1 50093 of the Health and Safety Code, provided that all units in the  
2 development are offered to the public for purchase.

3 (E) Ten percent of the total units of a housing development for  
4 transitional foster youth, as defined in Section 66025.9 of the  
5 Education Code, disabled veterans, as defined in Section 18541,  
6 or homeless persons, as defined in the federal McKinney-Vento  
7 Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units  
8 described in this subparagraph shall be subject to a recorded  
9 affordability restriction of 55 years and shall be provided at the  
10 same affordability level as very low income units.

11 (F) (i) Twenty percent of the total units for lower income  
12 students in a student housing development that meets the following  
13 requirements:

14 (I) All units in the student housing development will be used  
15 exclusively for undergraduate, graduate, or professional students  
16 enrolled full time at an institution of higher education accredited  
17 by the Western Association of Schools and Colleges or the  
18 Accrediting Commission for Community and Junior Colleges. In  
19 order to be eligible under this subclause, the developer shall, as a  
20 condition of receiving a certificate of occupancy, provide evidence  
21 to the city, county, or city and county that the developer has entered  
22 into an operating agreement or master lease with one or more  
23 institutions of higher education for the institution or institutions  
24 to occupy all units of the student housing development with  
25 students from that institution or institutions. An operating  
26 agreement or master lease entered into pursuant to this subclause  
27 is not violated or breached if, in any subsequent year, there are not  
28 sufficient students enrolled in an institution of higher education  
29 to fill all units in the student housing development.

30 (II) The applicable 20-percent units will be used for lower  
31 income students. For purposes of this clause, “lower income  
32 students” means students who have a household income and asset  
33 level that does not exceed the level for Cal Grant A or Cal Grant  
34 B award recipients as set forth in paragraph (1) of subdivision (k)  
35 of Section 69432.7 of the Education Code. The eligibility of a  
36 student under this clause shall be verified by an affidavit, award  
37 letter, or letter of eligibility provided by the institution of higher  
38 education that the student is enrolled in, as described in subclause  
39 (I), or by the California Student Aid Commission that the student  
40 receives or is eligible for financial aid, including an institutional

1 grant or fee waiver, from the college or university, the California  
2 Student Aid Commission, or the federal government shall be  
3 sufficient to satisfy this subclause.

4 (III) The rent provided in the applicable units of the development  
5 for lower income students shall be calculated at 30 percent of 65  
6 percent of the area median income for a single-room occupancy  
7 unit type.

8 (IV) The development will provide priority for the applicable  
9 affordable units for lower income students experiencing  
10 homelessness. A homeless service provider, as defined in paragraph  
11 (3) of subdivision (e) of Section 103577 of the Health and Safety  
12 Code, or institution of higher education that has knowledge of a  
13 person's homeless status may verify a person's status as homeless  
14 for purposes of this subclause.

15 (ii) For purposes of calculating a density bonus granted pursuant  
16 to this subparagraph, the term "unit" as used in this section means  
17 one rental bed and its pro rata share of associated common area  
18 facilities. The units described in this subparagraph shall be subject  
19 to a recorded affordability restriction of 55 years.

20 (G) One hundred percent of the total units, exclusive of a  
21 manager's unit or units, are for lower income households, as  
22 defined by Section 50079.5 of the Health and Safety Code, except  
23 that up to 20 percent of the total units in the development may be  
24 for moderate-income households, as defined in Section 50053 of  
25 the Health and Safety Code.

26 (2) For purposes of calculating the amount of the density bonus  
27 pursuant to subdivision (f), an applicant who requests a density  
28 bonus pursuant to this subdivision shall elect whether the bonus  
29 shall be awarded on the basis of subparagraph (A), (B), (C), (D),  
30 (E), (F), or (G) of paragraph (1).

31 (3) For the purposes of this section, "total units," "total dwelling  
32 units," or "total rental beds" does not include units added by a  
33 density bonus awarded pursuant to this section or any local law  
34 granting a greater density bonus.

35 (c) (1) (A) An applicant shall agree to, and the city, county,  
36 or city and county shall ensure, the continued affordability of all  
37 very low and low-income rental units that qualified the applicant  
38 for the award of the density bonus for 55 years or a longer period  
39 of time if required by the construction or mortgage financing

1 assistance program, mortgage insurance program, or rental subsidy  
2 program.

3 (B) (i) Except as otherwise provided in clause (ii), rents for the  
4 lower income density bonus units shall be set at an affordable rent,  
5 as defined in Section 50053 of the Health and Safety Code.

6 (ii) For housing developments meeting the criteria of  
7 subparagraph (G) of paragraph (1) of subdivision (b), rents for all  
8 units in the development, including both base density and density  
9 bonus units, shall be as follows:

10 (I) The rent for at least 20 percent of the units in the  
11 development shall be set at an affordable rent, as defined in Section  
12 50053 of the Health and Safety Code.

13 (II) The rent for the remaining units in the development shall  
14 be set at an amount consistent with the maximum rent levels for  
15 a housing development that receives an allocation of state or federal  
16 low-income housing tax credits from the California Tax Credit  
17 Allocation Committee.

18 (2) An applicant shall agree to, and the city, county, or city and  
19 county shall ensure that, the initial occupant of all for-sale units  
20 that qualified the applicant for the award of the density bonus are  
21 persons and families of very low, low, or moderate income, as  
22 required, and that the units are offered at an affordable housing  
23 cost, as that cost is defined in Section 50052.5 of the Health and  
24 Safety Code. The local government shall enforce an equity sharing  
25 agreement, unless it is in conflict with the requirements of another  
26 public funding source or law. The following apply to the equity  
27 sharing agreement:

28 (A) Upon resale, the seller of the unit shall retain the value of  
29 any improvements, the downpayment, and the seller's proportionate  
30 share of appreciation. The local government shall recapture any  
31 initial subsidy, as defined in subparagraph (B), and its proportionate  
32 share of appreciation, as defined in subparagraph (C), which  
33 amount shall be used within five years for any of the purposes  
34 described in subdivision (e) of Section 33334.2 of the Health and  
35 Safety Code that promote home ownership.

36 (B) For purposes of this subdivision, the local government's  
37 initial subsidy shall be equal to the fair market value of the home  
38 at the time of initial sale minus the initial sale price to the  
39 moderate-income household, plus the amount of any downpayment  
40 assistance or mortgage assistance. If upon resale the market value

1 is lower than the initial market value, then the value at the time of  
2 the resale shall be used as the initial market value.

3 (C) For purposes of this subdivision, the local government's  
4 proportionate share of appreciation shall be equal to the ratio of  
5 the local government's initial subsidy to the fair market value of  
6 the home at the time of initial sale.

7 (3) (A) An applicant shall be ineligible for a density bonus or  
8 any other incentives or concessions under this section if the housing  
9 development is proposed on any property that includes a parcel or  
10 parcels on which rental dwelling units are or, if the dwelling units  
11 have been vacated or demolished in the five-year period preceding  
12 the application, have been subject to a recorded covenant,  
13 ordinance, or law that restricts rents to levels affordable to persons  
14 and families of lower or very low income; subject to any other  
15 form of rent or price control through a public entity's valid exercise  
16 of its police power; or occupied by lower or very low income  
17 households, unless the proposed housing development replaces  
18 those units, and either of the following applies:

19 (i) The proposed housing development, inclusive of the units  
20 replaced pursuant to this paragraph, contains affordable units at  
21 the percentages set forth in subdivision (b).

22 (ii) Each unit in the development, exclusive of a manager's unit  
23 or units, is affordable to, and occupied by, either a lower or very  
24 low income household.

25 (B) For the purposes of this paragraph, "replace" shall mean  
26 either of the following:

27 (i) If any dwelling units described in subparagraph (A) are  
28 occupied on the date of application, the proposed housing  
29 development shall provide at least the same number of units of  
30 equivalent size to be made available at affordable rent or affordable  
31 housing cost to, and occupied by, persons and families in the same  
32 or lower income category as those households in occupancy. If  
33 the income category of the household in occupancy is not known,  
34 it shall be rebuttably presumed that lower income renter households  
35 occupied these units in the same proportion of lower income renter  
36 households to all renter households within the jurisdiction, as  
37 determined by the most recently available data from the United  
38 States Department of Housing and Urban Development's  
39 Comprehensive Housing Affordability Strategy database. For  
40 unoccupied dwelling units described in subparagraph (A) in a

1 development with occupied units, the proposed housing  
2 development shall provide units of equivalent size to be made  
3 available at affordable rent or affordable housing cost to, and  
4 occupied by, persons and families in the same or lower income  
5 category as the last household in occupancy. If the income category  
6 of the last household in occupancy is not known, it shall be  
7 rebuttably presumed that lower income renter households occupied  
8 these units in the same proportion of lower income renter  
9 households to all renter households within the jurisdiction, as  
10 determined by the most recently available data from the United  
11 States Department of Housing and Urban Development's  
12 Comprehensive Housing Affordability Strategy database. All  
13 replacement calculations resulting in fractional units shall be  
14 rounded up to the next whole number. If the replacement units will  
15 be rental dwelling units, these units shall be subject to a recorded  
16 affordability restriction for at least 55 years. If the proposed  
17 development is for-sale units, the units replaced shall be subject  
18 to paragraph (2).

19 (ii) If all dwelling units described in subparagraph (A) have  
20 been vacated or demolished within the five-year period preceding  
21 the application, the proposed housing development shall provide  
22 at least the same number of units of equivalent size as existed at  
23 the highpoint of those units in the five-year period preceding the  
24 application to be made available at affordable rent or affordable  
25 housing cost to, and occupied by, persons and families in the same  
26 or lower income category as those persons and families in  
27 occupancy at that time, if known. If the incomes of the persons  
28 and families in occupancy at the highpoint is not known, it shall  
29 be rebuttably presumed that low-income and very low income  
30 renter households occupied these units in the same proportion of  
31 low-income and very low income renter households to all renter  
32 households within the jurisdiction, as determined by the most  
33 recently available data from the United States Department of  
34 Housing and Urban Development's Comprehensive Housing  
35 Affordability Strategy database. All replacement calculations  
36 resulting in fractional units shall be rounded up to the next whole  
37 number. If the replacement units will be rental dwelling units,  
38 these units shall be subject to a recorded affordability restriction  
39 for at least 55 years. If the proposed development is for-sale units,  
40 the units replaced shall be subject to paragraph (2).

1 (C) Notwithstanding subparagraph (B), for any dwelling unit  
2 described in subparagraph (A) that is or was, within the five-year  
3 period preceding the application, subject to a form of rent or price  
4 control through a local government’s valid exercise of its police  
5 power and that is or was occupied by persons or families above  
6 lower income, the city, county, or city and county may do either  
7 of the following:

8 (i) Require that the replacement units be made available at  
9 affordable rent or affordable housing cost to, and occupied by,  
10 low-income persons or families. If the replacement units will be  
11 rental dwelling units, these units shall be subject to a recorded  
12 affordability restriction for at least 55 years. If the proposed  
13 development is for-sale units, the units replaced shall be subject  
14 to paragraph (2).

15 (ii) Require that the units be replaced in compliance with the  
16 jurisdiction’s rent or price control ordinance, provided that each  
17 unit described in subparagraph (A) is replaced. Unless otherwise  
18 required by the jurisdiction’s rent or price control ordinance, these  
19 units shall not be subject to a recorded affordability restriction.

20 (D) For purposes of this paragraph, “equivalent size” means  
21 that the replacement units contain at least the same total number  
22 of bedrooms as the units being replaced.

23 (E) Subparagraph (A) does not apply to an applicant seeking a  
24 density bonus for a proposed housing development if the  
25 applicant’s application was submitted to, or processed by, a city,  
26 county, or city and county before January 1, 2015.

27 (d) (1) An applicant for a density bonus pursuant to subdivision  
28 (b) may submit to a city, county, or city and county a proposal for  
29 the specific incentives or concessions that the applicant requests  
30 pursuant to this section, and may request a meeting with the city,  
31 county, or city and county. The city, county, or city and county  
32 shall grant the concession or incentive requested by the applicant  
33 unless the city, county, or city and county makes a written finding,  
34 based upon substantial evidence, of any of the following:

35 (A) The concession or incentive does not result in identifiable  
36 and actual cost reductions, consistent with subdivision (k), to  
37 provide for affordable housing costs, as defined in Section 50052.5  
38 of the Health and Safety Code, or for rents for the targeted units  
39 to be set as specified in subdivision (c).

1 (B) The concession or incentive would have a specific, adverse  
2 impact, as defined in paragraph (2) of subdivision (d) of Section  
3 65589.5, upon public health and safety or the physical environment  
4 or on any real property that is listed in the California Register of  
5 Historical Resources and for which there is no feasible method to  
6 satisfactorily mitigate or avoid the specific, adverse impact without  
7 rendering the development unaffordable to low-income and  
8 moderate-income households.

9 (C) The concession or incentive would be contrary to state or  
10 federal law.

11 (2) The applicant shall receive the following number of  
12 incentives or concessions:

13 (A) One incentive or concession for projects that include at least  
14 10 percent of the total units for lower income households, at least  
15 5 percent for very low income households, or at least 10 percent  
16 for persons and families of moderate income in a common interest  
17 development.

18 (B) Two incentives or concessions for projects that include at  
19 least 20 percent of the total units for lower income households, at  
20 least 10 percent for very low income households, or at least 20  
21 percent for persons and families of moderate income in a common  
22 interest development.

23 (C) Three incentives or concessions for projects that include at  
24 least 30 percent of the total units for lower income households, at  
25 least 12 percent for very low income households, or at least 30  
26 percent for persons and families of moderate income in a common  
27 interest development.

28 (D) Four incentives or concessions for projects that include at  
29 least 31 percent of the total units for lower income households, at  
30 least 13 percent for very low income households, or at least 31  
31 percent for persons and families of moderate income in a common  
32 interest development.

33 (E) Five incentives or concessions for projects that include at  
34 least 33 percent of the total units for lower income households, at  
35 least 15 percent for very low income households, or at least 33  
36 percent for persons and families of moderate income in a common  
37 interest development.

38 (F) Six incentives or concessions for projects meeting the criteria  
39 of subparagraph (G) of paragraph (1) of subdivision (b). If the  
40 project is located within one-half mile of a major transit stop, as

1 defined in subdivision (b) of Section 21155 of the Public Resources  
2 Code, the applicant shall also receive a height increase of up to  
3 three additional stories, or 33 feet.

4 (3) The applicant may initiate judicial proceedings if the city,  
5 county, or city and county refuses to grant a requested density  
6 bonus, incentive, or concession. If a court finds that the refusal to  
7 grant a requested density bonus, incentive, or concession is in  
8 violation of this section, the court shall award the plaintiff  
9 reasonable attorney's fees and costs of suit. Nothing in this  
10 subdivision shall be interpreted to require a local government to  
11 grant an incentive or concession that has a specific, adverse impact,  
12 as defined in paragraph (2) of subdivision (d) of Section 65589.5,  
13 upon health, safety, or the physical environment, and for which  
14 there is no feasible method to satisfactorily mitigate or avoid the  
15 specific adverse impact. Nothing in this subdivision shall be  
16 interpreted to require a local government to grant an incentive or  
17 concession that would have an adverse impact on any real property  
18 that is listed in the California Register of Historical Resources.  
19 The city, county, or city and county shall establish procedures for  
20 carrying out this section that shall include legislative body approval  
21 of the means of compliance with this section.

22 (4) The city, county, or city and county shall bear the burden  
23 of proof for the denial of a requested concession or incentive.

24 (e) (1) In no case may a city, county, or city and county apply  
25 any development standard that will have the effect of physically  
26 precluding the construction of a development meeting the criteria  
27 of subdivision (b) at the densities or with the concessions or  
28 incentives permitted by this section. Subject to paragraph (3), an  
29 applicant may submit to a city, county, or city and county a  
30 proposal for the waiver or reduction of development standards that  
31 will have the effect of physically precluding the construction of a  
32 development meeting the criteria of subdivision (b) at the densities  
33 or with the concessions or incentives permitted under this section,  
34 and may request a meeting with the city, county, or city and county.  
35 If a court finds that the refusal to grant a waiver or reduction of  
36 development standards is in violation of this section, the court  
37 shall award the plaintiff reasonable attorney's fees and costs of  
38 suit. Nothing in this subdivision shall be interpreted to require a  
39 local government to waive or reduce development standards if the  
40 waiver or reduction would have a specific, adverse impact, as

1 defined in paragraph (2) of subdivision (d) of Section 65589.5,  
 2 upon health, safety, or the physical environment, and for which  
 3 there is no feasible method to satisfactorily mitigate or avoid the  
 4 specific adverse impact. Nothing in this subdivision shall be  
 5 interpreted to require a local government to waive or reduce  
 6 development standards that would have an adverse impact on any  
 7 real property that is listed in the California Register of Historical  
 8 Resources, or to grant any waiver or reduction that would be  
 9 contrary to state or federal law.

10 (2) A proposal for the waiver or reduction of development  
 11 standards pursuant to this subdivision shall neither reduce nor  
 12 increase the number of incentives or concessions to which the  
 13 applicant is entitled pursuant to subdivision (d).

14 (3) A housing development that receives a waiver from any  
 15 maximum controls on density pursuant to clause (ii) of  
 16 subparagraph (D) of paragraph (3) of subdivision (f) shall only be  
 17 eligible for a waiver or reduction of development standards as  
 18 provided in subparagraph (F) of paragraph (2) of subdivision (d)  
 19 and clause (ii) of subparagraph (D) of paragraph (3) of subdivision  
 20 (f), unless the city, county, or city and county agrees to additional  
 21 waivers or reductions of development standards.

22 (f) For the purposes of this chapter, “density bonus” means a  
 23 density increase over the otherwise maximum allowable gross  
 24 residential density as of the date of application by the applicant to  
 25 the city, county, or city and county, or, if elected by the applicant,  
 26 a lesser percentage of density increase, including, but not limited  
 27 to, no increase in density. The amount of density increase to which  
 28 the applicant is entitled shall vary according to the amount by  
 29 which the percentage of affordable housing units exceeds the  
 30 percentage established in subdivision (b).

31 (1) For housing developments meeting the criteria of  
 32 subparagraph (A) of paragraph (1) of subdivision (b), the density  
 33 bonus shall be calculated as follows:

34	Percentage Low-Income Units	Percentage Density
35		Bonus
36		
37	10	20
38	11	21.5
39	12	23
40	13	24.5

1	14	26
2	15	27.5
3	16	29
4	17	30.5
5	18	32
6	19	33.5
7	20	35
8	21	38.75
9	22	42.5
10	23	46.25
11	24	50
12	25	50
13	26	50
14	27	50
15	28	50
16	29	50
17	30	50
18	31	50
19	32	50
20	33	50

21  
22 (2) For housing developments meeting the criteria of  
23 subparagraph (B) of paragraph (1) of subdivision (b), the density  
24 bonus shall be calculated as follows:  
25

26	Percentage Very Low Income Units	Percentage Density Bonus
27	5	20
28	6	22.5
29	7	25
30	8	27.5
31	9	30
32	10	32.5
33	11	35
34	12	38.75
35	13	42.5
36	14	46.25
37	15	50

38  
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11 (3) (A) For housing developments meeting the criteria of  
12 subparagraph (C) of paragraph (1) of subdivision (b), the density  
13 bonus shall be 20 percent of the number of senior housing units.

14 (B) For housing developments meeting the criteria of  
15 subparagraph (E) of paragraph (1) of subdivision (b), the density  
16 bonus shall be 20 percent of the number of the type of units giving  
17 rise to a density bonus under that subparagraph.

18 (C) For housing developments meeting the criteria of  
19 subparagraph (F) of paragraph (1) of subdivision (b), the density  
20 bonus shall be 35 percent of the student housing units.

21 (D) For housing developments meeting the criteria of  
22 subparagraph (G) of paragraph (1) of subdivision (b), the following  
23 shall apply:

24 (i) Except as otherwise provided in clause (ii), the density bonus  
25 shall be 80 percent of the number of units for lower income  
26 households.

27 (ii) If the housing development is located within one-half mile  
28 of a major transit stop, as defined in subdivision (b) of Section  
29 21155 of the Public Resources Code, the city, county, or city and  
30 county shall not impose any maximum controls on density.

31 (4) For housing developments meeting the criteria of  
32 subparagraph (D) of paragraph (1) of subdivision (b), the density  
33 bonus shall be calculated as follows:

34  
35  
36  
37  
38  
39  
40

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9

1	15	10
2	16	11
3	17	12
4	18	13
5	19	14
6	20	15
7	21	16
8	22	17
9	23	18
10	24	19
11	25	20
12	26	21
13	27	22
14	28	23
15	29	24
16	30	25
17	31	26
18	32	27
19	33	28
20	34	29
21	35	30
22	36	31
23	37	32
24	38	33
25	39	34
26	40	35
27	41	38.75
28	42	42.5
29	43	46.25
30	44	50

31  
32 (5) All density calculations resulting in fractional units shall be  
33 rounded up to the next whole number. The granting of a density  
34 bonus shall not require, or be interpreted, in and of itself, to require  
35 a general plan amendment, local coastal plan amendment, zoning  
36 change, or other discretionary approval.

37 (g) (1) When an applicant for a tentative subdivision map,  
38 parcel map, or other residential development approval donates  
39 land to a city, county, or city and county in accordance with this  
40 subdivision, the applicant shall be entitled to a 15-percent increase

1 above the otherwise maximum allowable residential density for  
2 the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
3		
4		
5	10	15
6	11	16
7	12	17
8	13	18
9	14	19
10	15	20
11	16	21
12	17	22
13	18	23
14	19	24
15	20	25
16	21	26
17	22	27
18	23	28
19	24	29
20	25	30
21	26	31
22	27	32
23	28	33
24	29	34
25	30	35

26  
27 (2) This increase shall be in addition to any increase in density  
28 mandated by subdivision (b), up to a maximum combined mandated  
29 density increase of 35 percent if an applicant seeks an increase  
30 pursuant to both this subdivision and subdivision (b). All density  
31 calculations resulting in fractional units shall be rounded up to the  
32 next whole number. Nothing in this subdivision shall be construed  
33 to enlarge or diminish the authority of a city, county, or city and  
34 county to require a developer to donate land as a condition of  
35 development. An applicant shall be eligible for the increased  
36 density bonus described in this subdivision if all of the following  
37 conditions are met:

38 (A) The applicant donates and transfers the land no later than  
39 the date of approval of the final subdivision map, parcel map, or  
40 residential development application.

1 (B) The developable acreage and zoning classification of the  
2 land being transferred are sufficient to permit construction of units  
3 affordable to very low income households in an amount not less  
4 than 10 percent of the number of residential units of the proposed  
5 development.

6 (C) The transferred land is at least one acre in size or of  
7 sufficient size to permit development of at least 40 units, has the  
8 appropriate general plan designation, is appropriately zoned with  
9 appropriate development standards for development at the density  
10 described in paragraph (3) of subdivision (c) of Section 65583.2,  
11 and is or will be served by adequate public facilities and  
12 infrastructure.

13 (D) The transferred land shall have all of the permits and  
14 approvals, other than building permits, necessary for the  
15 development of the very low income housing units on the  
16 transferred land, not later than the date of approval of the final  
17 subdivision map, parcel map, or residential development  
18 application, except that the local government may subject the  
19 proposed development to subsequent design review to the extent  
20 authorized by subdivision (i) of Section 65583.2 if the design is  
21 not reviewed by the local government before the time of transfer.

22 (E) The transferred land and the affordable units shall be subject  
23 to a deed restriction ensuring continued affordability of the units  
24 consistent with paragraphs (1) and (2) of subdivision (c), which  
25 shall be recorded on the property at the time of the transfer.

26 (F) The land is transferred to the local agency or to a housing  
27 developer approved by the local agency. The local agency may  
28 require the applicant to identify and transfer the land to the  
29 developer.

30 (G) The transferred land shall be within the boundary of the  
31 proposed development or, if the local agency agrees, within  
32 one-quarter mile of the boundary of the proposed development.

33 (H) A proposed source of funding for the very low income units  
34 shall be identified not later than the date of approval of the final  
35 subdivision map, parcel map, or residential development  
36 application.

37 (h) (1) When an applicant proposes to construct a housing  
38 development that conforms to the requirements of subdivision (b)  
39 and includes a childcare facility that will be located on the premises

1 of, as part of, or adjacent to, the project, the city, county, or city  
2 and county shall grant either of the following:

3 (A) An additional density bonus that is an amount of square  
4 feet of residential space that is equal to or greater than the amount  
5 of square feet in the childcare facility.

6 (B) An additional concession or incentive that contributes  
7 significantly to the economic feasibility of the construction of the  
8 childcare facility.

9 (2) The city, county, or city and county shall require, as a  
10 condition of approving the housing development, that the following  
11 occur:

12 (A) The childcare facility shall remain in operation for a period  
13 of time that is as long as or longer than the period of time during  
14 which the density bonus units are required to remain affordable  
15 pursuant to subdivision (c).

16 (B) Of the children who attend the childcare facility, the children  
17 of very low income households, lower income households, or  
18 families of moderate income shall equal a percentage that is equal  
19 to or greater than the percentage of dwelling units that are required  
20 for very low income households, lower income households, or  
21 families of moderate income pursuant to subdivision (b).

22 (3) Notwithstanding any requirement of this subdivision, a city,  
23 county, or city and county shall not be required to provide a density  
24 bonus or concession for a childcare facility if it finds, based upon  
25 substantial evidence, that the community has adequate childcare  
26 facilities.

27 (4) “Childcare facility,” as used in this section, means a child  
28 daycare facility other than a family daycare home, including, but  
29 not limited to, infant centers, preschools, extended daycare  
30 facilities, and schoolage childcare centers.

31 (i) “Housing development,” as used in this section, means a  
32 development project for five or more residential units, including  
33 mixed-use developments. For the purposes of this section, “housing  
34 development” also includes a subdivision or common interest  
35 development, as defined in Section 4100 of the Civil Code,  
36 approved by a city, county, or city and county and consists of  
37 residential units or unimproved residential lots and either a project  
38 to substantially rehabilitate and convert an existing commercial  
39 building to residential use or the substantial rehabilitation of an  
40 existing multifamily dwelling, as defined in subdivision (d) of

1 Section 65863.4, where the result of the rehabilitation would be a  
2 net increase in available residential units. For the purpose of  
3 calculating a density bonus, the residential units shall be on  
4 contiguous sites that are the subject of one development  
5 application, but do not have to be based upon individual  
6 subdivision maps or parcels. The density bonus shall be permitted  
7 in geographic areas of the housing development other than the  
8 areas where the units for the lower income households are located.

9 (j) (1) The granting of a concession or incentive shall not require  
10 or be interpreted, in and of itself, to require a general plan  
11 amendment, local coastal plan amendment, zoning change, study,  
12 or other discretionary approval. For purposes of this subdivision,  
13 “study” does not include reasonable documentation to establish  
14 eligibility for the concession or incentive or to demonstrate that  
15 the incentive or concession meets the definition set forth in  
16 subdivision (k). This provision is declaratory of existing law.

17 (2) Except as provided in subdivisions (d) and (e), the granting  
18 of a density bonus shall not require or be interpreted to require the  
19 waiver of a local ordinance or provisions of a local ordinance  
20 unrelated to development standards.

21 (k) For the purposes of this chapter, concession or incentive  
22 means any of the following:

23 (1) A reduction in site development standards or a modification  
24 of zoning code requirements or architectural design requirements  
25 that exceed the minimum building standards approved by the  
26 California Building Standards Commission as provided in Part 2.5  
27 (commencing with Section 18901) of Division 13 of the Health  
28 and Safety Code, including, but not limited to, a reduction in  
29 setback and square footage requirements and in the ratio of  
30 vehicular parking spaces that would otherwise be required that  
31 results in identifiable and actual cost reductions, to provide for  
32 affordable housing costs, as defined in Section 50052.5 of the  
33 Health and Safety Code, or for rents for the targeted units to be  
34 set as specified in subdivision (c).

35 (2) Approval of mixed-use zoning in conjunction with the  
36 housing project if commercial, office, industrial, or other land uses  
37 will reduce the cost of the housing development and if the  
38 commercial, office, industrial, or other land uses are compatible  
39 with the housing project and the existing or planned development  
40 in the area where the proposed housing project will be located.

1 (3) Other regulatory incentives or concessions proposed by the  
2 developer or the city, county, or city and county that result in  
3 identifiable and actual cost reductions to provide for affordable  
4 housing costs, as defined in Section 50052.5 of the Health and  
5 Safety Code, or for rents for the targeted units to be set as specified  
6 in subdivision (c).

7 (l) Subdivision (k) does not limit or require the provision of  
8 direct financial incentives for the housing development, including  
9 the provision of publicly owned land, by the city, county, or city  
10 and county, or the waiver of fees or dedication requirements.

11 (m) This section does not supersede or in any way alter or lessen  
12 the effect or application of the California Coastal Act of 1976  
13 (Division 20 (commencing with Section 30000) of the Public  
14 Resources Code). Any density bonus, concessions, incentives,  
15 waivers or reductions of development standards, and parking ratios  
16 to which the applicant is entitled under this section shall be  
17 permitted in a manner that is consistent with this section and  
18 Division 20 (commencing with Section 30000) of the Public  
19 Resources Code.

20 (n) If permitted by local ordinance, nothing in this section shall  
21 be construed to prohibit a city, county, or city and county from  
22 granting a density bonus greater than what is described in this  
23 section for a development that meets the requirements of this  
24 section or from granting a proportionately lower density bonus  
25 than what is required by this section for developments that do not  
26 meet the requirements of this section.

27 (o) For purposes of this section, the following definitions shall  
28 apply:

29 (1) “Development standard” includes a site or construction  
30 condition, including, but not limited to, a height limitation, a  
31 setback requirement, a floor area ratio, an onsite open-space  
32 requirement, or a parking ratio that applies to a residential  
33 development pursuant to any ordinance, general plan element,  
34 specific plan, charter, or other local condition, law, policy,  
35 resolution, or regulation.

36 (2) “Maximum allowable residential density” means the density  
37 allowed under the zoning ordinance and land use element of the  
38 general plan, or, if a range of density is permitted, means the  
39 maximum allowable density for the specific zoning range and land  
40 use element of the general plan applicable to the project. If the

1 density allowed under the zoning ordinance is inconsistent with  
2 the density allowed under the land use element of the general plan,  
3 the general plan density shall prevail.

4 (p) (1) Except as provided in paragraphs (2), (3), and (4), upon  
5 the request of the developer, a city, county, or city and county shall  
6 not require a vehicular parking ratio, inclusive of handicapped and  
7 guest parking, of a development meeting the criteria of subdivisions  
8 (b) and (c), that exceeds the following ratios:

9 (A) Zero to one bedroom: one onsite parking space.

10 (B) Two to three bedrooms: one and one-half onsite parking  
11 spaces.

12 (C) Four and more bedrooms: two and one-half parking spaces.

13 (2) (A) Notwithstanding paragraph (1), if a development  
14 includes ~~the maximum percentage of low-income or very low~~  
15 ~~income units provided for in paragraphs (1) and (2) of subdivision~~  
16 ~~(f) and at least 20 percent low income units for housing~~  
17 ~~developments meeting the criteria of subparagraph (A) of~~  
18 ~~paragraph (1) of subdivision (b) or at least 11 percent very low~~  
19 ~~income units for housing developments meeting the criteria of~~  
20 ~~subparagraph (B) of paragraph (1) of subdivision (b), is located~~  
21 within one-half mile of a major transit stop, as defined in  
22 subdivision (b) of Section 21155 of the Public Resources Code,  
23 and there is unobstructed access to the major transit stop from the  
24 development, then, upon the request of the developer, a city,  
25 county, or city and county shall not impose a vehicular parking  
26 ratio, inclusive of handicapped and guest parking, that exceeds 0.5  
27 spaces per unit.

28 (B) For purposes of this subdivision, a development shall have  
29 unobstructed access to a major transit stop if a resident is able to  
30 access the major transit stop without encountering natural or  
31 constructed impediments. For purposes of this subparagraph,  
32 “natural or constructed impediments” includes, but is not limited  
33 to, freeways, rivers, mountains, and bodies of water, but does not  
34 include residential structures, shopping centers, parking lots, or  
35 rails used for transit.

36 (C) The distance of a development described in subparagraph  
37 (A) from a major transit stop shall be measured from any point  
38 located on the property of the proposed development to any point  
39 on the property on which the major transit stop is located, including

1 any parking lot owned by the transit authority or other local agency  
2 operating the major transit stop.

3 (3) Notwithstanding paragraph (1), if a development consists  
4 solely of rental units, exclusive of a manager's unit or units, with  
5 an affordable housing cost to lower income families, as provided  
6 in Section 50052.5 of the Health and Safety Code, then, upon the  
7 request of the developer, a city, county, or city and county shall  
8 not impose vehicular parking standards if the development ~~is~~ *meets*  
9 *either of the following criteria:*

10 (A) *The development is* located within one-half mile of a major  
11 transit stop, as defined in subdivision (b) of Section 21155 of the  
12 Public Resources Code, and there is unobstructed access to the  
13 major transit stop from the development. ~~If the~~

14 (B) *The development is* a for-rent housing development for  
15 individuals who are 62 years of age or older that complies with  
16 Sections 51.2 and 51.3 of the Civil ~~Code~~, *Code and the*  
17 development ~~shall have~~ *has* either paratransit service or  
18 unobstructed access, within one-half mile, to fixed bus route service  
19 that operates at least eight times per day.

20 (4) Notwithstanding paragraphs (1) and (8), if a development  
21 consists solely of rental units, exclusive of a manager's unit or  
22 units, with an affordable housing cost to lower income families,  
23 as provided in Section 50052.5 of the Health and Safety Code, and  
24 the development is either a special needs housing development,  
25 as defined in Section 51312 of the Health and Safety Code, or a  
26 supportive housing development, as defined in Section 50675.14  
27 of the Health and Safety Code, then, upon the request of the  
28 developer, a city, county, or city and county shall not impose any  
29 minimum vehicular parking requirement. A development that is  
30 a special needs housing development shall have either paratransit  
31 service or unobstructed access, within one-half mile, to fixed bus  
32 route service that operates at least eight times per day.

33 (5) If the total number of parking spaces required for a  
34 development is other than a whole number, the number shall be  
35 rounded up to the next whole number. For purposes of this  
36 subdivision, a development may provide onsite parking through  
37 tandem parking or uncovered parking, but not through onstreet  
38 parking.

39 (6) This subdivision shall apply to a development that meets  
40 the requirements of subdivisions (b) and (c), but only at the request

1 of the applicant. An applicant may request parking incentives or  
2 concessions beyond those provided in this subdivision pursuant  
3 to subdivision (d).

4 (7) This subdivision does not preclude a city, county, or city  
5 and county from reducing or eliminating a parking requirement  
6 for development projects of any type in any location.

7 (8) Notwithstanding paragraphs (2) and (3), if a city, county,  
8 city and county, or an independent consultant has conducted an  
9 areawide or jurisdictionwide parking study in the last seven years,  
10 then the city, county, or city and county may impose a higher  
11 vehicular parking ratio not to exceed the ratio described in  
12 paragraph (1), based upon substantial evidence found in the parking  
13 study, that includes, but is not limited to, an analysis of parking  
14 availability, differing levels of transit access, walkability access  
15 to transit services, the potential for shared parking, the effect of  
16 parking requirements on the cost of market-rate and subsidized  
17 developments, and the lower rates of car ownership for low-income  
18 and very low income individuals, including seniors and special  
19 needs individuals. The city, county, or city and county shall pay  
20 the costs of any new study. The city, county, or city and county  
21 shall make findings, based on a parking study completed in  
22 conformity with this paragraph, supporting the need for the higher  
23 parking ratio.

24 (9) A request pursuant to this subdivision shall neither reduce  
25 nor increase the number of incentives or concessions to which the  
26 applicant is entitled pursuant to subdivision (d).

27 (q) Each component of any density calculation, including base  
28 density and bonus density, resulting in fractional units shall be  
29 separately rounded up to the next whole number. The Legislature  
30 finds and declares that this provision is declaratory of existing law.

31 (r) This chapter shall be interpreted liberally in favor of  
32 producing the maximum number of total housing units.

33 (s) *Notwithstanding any other law, if a city, county, or city and*  
34 *county has adopted an ordinance pursuant to this section that, as*  
35 *of the date immediately prior to the effective date of the act adding*  
36 *this subdivision, provides for density bonuses that exceed the*  
37 *density bonuses required by this section, that city, county, or city*  
38 *and county is not required to amend or otherwise update its*  
39 *ordinance to comply with the amendments made to this section by*  
40 *the act adding this subdivision.*

1     ~~SEC. 2.~~

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

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