File No. 250727 **Committee Item No.** 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Prepared by: John Carroll **Date:** July 10, 2025
Prepared by: _____ **Date:** _____
Prepared by: _____ **Date:** _____

FILE NO. 250727 RESOLUTION NO.

[Opposing California State Senate Bill No. 79 (Wiener) Unless Amended - Housing Development: Transit-Oriented Development]

Resolution opposing California State Senate Bill No. 79, Housing Development: Transit-Oriented Development, introduced by Senator Scott Wiener, and similar future legislation, unless amended to give Local governments adequate ability to formulate local plans through its local legislative process, in which local governments and residents have adequate review and oversight of community planning, including affordability requirements, and residential and commercial tenant protections.

WHEREAS, The City and County of San Francisco completed a lengthy community planning process, starting in December 2019, to develop the 2022 Housing Element, which was thoroughly analyzed for environmental and equity impacts, identified protected and valuable Priority Equity Geographies (PEG's); and

WHEREAS, The 2022 Housing Element was unanimously adopted by the Board of Supervisors and found to be in compliance with State "capacity" requirements by the California Department of Housing and Community Development (HCD) in January 2023; and

WHEREAS, The Housing Element is typically updated every eight years in anticipation of future planning efforts to accommodate projected population growth and the planning for necessary infrastructure to support an increase in residents and jobs, and has historically been accommodated by Large Area Plans encompassing areas of the city that have the most opportunity for growth without direct residential displacement, such as the Eastern Neighborhoods Plan, with which its four neighborhood area plans took a years to complete with significant community input, affordability requirements and infrastructure planning; and

WHEREAS, The Mayor of the City and County of San Francisco, by and through the Planning Department, has introduced legislation to rezone approximately half of San

Francisco ostensibly to meet the goals of the 2022 Housing Element, for which legislation has yet to be vetted by the Planning Commission, or considered by the Board of Supervisors; and

WHEREAS, Governor Jerry Brown signed California State Assembly Bill 2923, *San Francisco Bay Area Rapid Transit District: Transit-oriented Development* (Grayson, D-Concord and Chiu, D-San Francisco), into law in 2018, requiring the establishment of minimum local zoning requirements and permit streamlining for transit-oriented development on Bay Area Rapid Transit (BART)-owned land that is located on contiguous parcels larger than 0.25 acres, within 1/2 mile of an existing or planned BART station entrance, without any additional affordability requirements beyond cities' existing inclusionary program, with the goal of building 20,000 new housing units at or near BART stations by 2040; and

WHEREAS, The City and County of San Francisco has developed a diverse set of policy priorities, local planning requirements and housing development incentives tailored to accommodate growth within San Francisco's compressed geographic boundaries, while seeking to protect valuable existing housing, small businesses, blue-collar light industrial and local manufacturing work sites, and cultural and social institutions that shelter, sustain, and serve a culturally and economically diverse population, including a majority renter population; and

WHEREAS, Despite thoughtful community-led planning, financing and rezoning citywide, including eliminating single-family home zoning and incentivizing the development of Accessory Dwelling Units (ADU's), adopting voter-approved affordable housing bonds totaling approximately one billion dollars, and passing numerous local permit streamlining laws (not including over 300 often conflicting State bills adopted since 2017, of which many of them preempt local laws), San Francisco currently has approximately 40,000 fully-entitled units of housing unable to secure construction financing, and has not received significant State support in the form of creative financing strategies, tax credits, subsidies or funding to address

the significant underproduction of housing middle-income, low, and very low income residents; and

WHEREAS, California Senate Bill No. 79 (SB 79), authored by State Senator Scott Wiener, undermines the City's ongoing planning process that is currently being undertaken, because it further deregulates land use and development requirements, particularly around housing affordability, including in areas that the City has not only already adopted balanced area plans , but also in Priority Equity Geographies, where displacement-risk is high, and on top of the city's current as-yet-to-be-adopted rezoning plan; and

WHEREAS, Proposed projects that take advantage of SB 79 benefits would also be able to take advantage of by-right entitlement under Senate Bill 423 (Wiener), which is on file with the Clerk of the Board of Supervisors in File No. 250727, and is hereby declared to be a part of this Resolution as if set forth fully herein; and

WHEREAS, SB 79 does not provide for any phasing or "metering" of the development to ensure a balance of market-rate and affordable homes, in order to allow for local jurisdictions to meet their affordable housing goals at the same pace as luxury development; and

WHEREAS, As currently written, projects that take advantage of SB 79 benefits and similarly for a project entitled through a "local alternative" ordinance are also still eligible for additional density or other concessions, incentives or waivers under the State Density Bonus on top of the allowances provided for in SB 79, which is essentially a "double dip"; and

WHEREAS, By encouraging land speculation, displacement and gentrification, SB 79 significantly undercuts the years-long community process to develop a citywide Housing Element that was deemed HCD-compliant and protect PEG's, which particularly includes the Mission District, Bayview, Inner Richmond, Greater Chinatown and other dense, vibrant and diverse neighborhoods; and

WHEREAS, Public participation and input into the local planning and policymaking process is essential to successfully and equitably accommodating local and regional growth; and

WHEREAS, As with many other cities, San Francisco's Planning Code was not designed to be a rigid formula for development, but rather a collection of specific and variable zoning standards to seek a balance between promoting change and protecting existing uses, while balancing the needs of a diversity of neighborhood commercial and transit corridors; and

WHEREAS, The core concern of the predecessor to SB 79, Senate Bill 50 (Wiener), which is on file with the Clerk of the Board of Supervisors in File No. 250727, and which is hereby declared to be a part of this Resolution as if set forth fully herein, was ultimately rejected by the State Legislature five years ago because of its over-reach and its potential threat to low-income and communities of color in vulnerable transit-accessible neighborhoods across cities in California; and

WHEREAS, The layering of deregulatory legislation mandated by the State over more deregulatory legislation already imposed, without an effective affordability plan, commensurate state and federal investment, and enforceable tenant protections, nor enforceable and small business protections in the face of anticipated significant displacement of small business in commercial-only buildings, particularly at the upswing of the Bay Area's next economic boom, will lead to widespread displacement and land speculation, which was the same concern that rejected SB 50; and

WHEREAS, SB 79 also makes it harder for non-profit affordable housing developers to obtain site control of large opportunity sites, as land values are driven up by upzoning mandates like SB 79 making development sites even less competitive for affordable housing developers, and at the same time state and federal disinvestment continues leaving the

benefits of this upzoning and entitlement streamlining almost entirely to market-rate and luxury developers; and

WHEREAS, SB 79 allows jurisdictions that have explicitly created an alternate Transit Oriented Development (TOD) plan to opt out of the bill's mandates, while at the same time, San Francisco has reasonably demonstrated a commitment to strong TOD planning, including but not limited to the Eastern Neighborhoods Plan, the Transit Center District Plan, the Transit First Policy, Priority Development Areas (PDA), the HOME SF program, and the San Francisco Transportation Element, which was last updated in 1995 and currently in the process of being updated in 2025 in conjunction with the City's Housing Element rezoning; and

WHEREAS, While the California Constitution requires the State to reimburse local agencies and school districts for certain costs mandate by the State, including land use rezoning bills intended to increase capacity for housing development, as does this SB 79 Bill in Section (3) of the text, reading: "(3)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state; statutory provisions establish procedures for making that reimbursement; this bill would provide that no reimbursement is required by this act for a specified reason."; the State has consistently failed to comply with this expectation through commensurate investment in affordable housing construction and necessary operating subsidies to ensure the affordability promised by these rezoning and upzoning bills; and

WHEREAS, The City Attorney of Los Angeles has adopted an "oppose unless amended" position on SB 79, which is on file with the Clerk of the Board of Supervisors in File No. 250727, and which is hereby declared to be a part of this resolution as if set forth fully herein, because of its "billions of dollars in additional costs to communities" and "because State mandates like SB 79 require new density without enabling cities to recover the actual

infrastructure costs, the mandates create unfunded obligations in the billions of dollars"; now, therefore, be it

RESOLVED, That That the Board of Supervisors of the City and County of San Francisco finds that California State Senate Bill No. 79 unduly limits the ability of local governments and local residents to have adequate review and oversight of community planning and policymaking, including critically important affordability requirements and residential and commercial tenant protections; and, be it

FURTHER RESOLVED, That the Board of Supervisors of the City and County of San Francisco urges the State to develop a detailed housing affordability plan to be updated every eight years along with local Housing Elements, and provide the necessary capital and operating investments to build new housing at the scale of that plan to address the affordability crisis in California and the Bay Area; and, be it

FURTHER RESOLVED, That the Board of Supervisors of the City and County of San Francisco directs the Clerk of the Board to transmit a copy of this Resolution upon passage to the respective offices of the California State Senate, State Assembly and the City Lobbyist.

SB-79 Housing development: transit-oriented development. (2025-2026)

Date Published: 06/24/2025 04:00 AM

AMENDED IN ASSEMBLY JUNE 23, 2025

AMENDED IN ASSEMBLY JUNE 16, 2025

AMENDED IN SENATE MAY 29, 2025

AMENDED IN SENATE MAY 28, 2025

AMENDED IN SENATE MAY 13, 2025

AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 09, 2025

AMENDED IN SENATE MARCH 05, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

SENATE BILL NO. 79

Introduced by Senator Wiener

January 15, 2025

An act to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. Housing development: transit-oriented development.

(1) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a land use element and a housing element. Existing law requires that the land use element designate the proposed general distribution and general location and extent of the uses of the land, as specified. Existing law requires that the housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing, as specified. Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent

revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce the act's provisions, as provided, and provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a housing development project, as defined, ~~proposed~~ within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use *as a transit-oriented housing development* on any site zoned for residential, mixed, or commercial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed requirements, as specified. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. The bill would specify that a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements, and would specify that the project is required to comply with certain affordability requirements, under that law.

This bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units and to include housing for lower income households, as specified. The bill would also authorize a transit agency to adopt objective ~~standards~~ *standards, as specified,* for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating ~~easement, if the~~ *easement and would only apply these standards for* land *that* is *either (A)* within $^{1}/_{2}$ mile of a TOD ~~stop and the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.~~ *stop, if the land was owned by the transit agency on or before January 1, 2026, or (B) adjacent to a TOD stop.*

This bill would authorize a local government to enact a local TOD alternative plan as an amendment to the housing element and land use element, and would exempt a local government that has enacted a local TOD alternative plan from the above-specified provisions. The bill would require the plan to maintain at least the same total increase in feasible zoned capacity, in terms of both total units and residential floor area, as provided by these provisions across all TOD zones, as ~~defined.~~ *provided.* The bill would require a local government, except as provided, to submit the draft plan to the department and would require the department to assess the plan and recommend changes to remove unnecessary constraints on housing.

This bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. The bill would authorize the regional council of governments or metropolitan planning organization to create a map of designated TOD stops and zones, which would have a rebuttable presumption of validity. The bill would authorize a local government to enact an ordinance to make its zoning code consistent with these provisions, as provided. The bill would require the local government to submit a copy of this ordinance to the department within 60 days of enactment and would require the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and the local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

This bill would define various terms for its purposes and make related findings and declarations.

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

By increasing the duties of local officials, this bill would impose a state-mandated local program.

(2) This bill would provide that the provisions of this bill are severable.

(3) 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4.1.5 (commencing with Section 65912.155) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.1.5. Transit-Oriented Development

65912.155. The Legislature finds and declares all of the following:

(a) California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure.

(b) Building more homes near transit access reduces housing and transportation costs for California families, and promotes environmental sustainability, economic growth, and reduced traffic congestion.

(c) Public transit systems require sustainable funding to provide reliable service, especially in areas experiencing increased density and ridership. The state does not invest in public transit service to the same degree as it does in roads, and the state funds a smaller proportion of the state's major transit agencies' operations costs than other states with comparable systems. Transit systems in other countries derive significant revenue from transit-oriented development at and near their stations.

65912.156. For purposes of this chapter, the following definitions apply:

(a) "Adjacent" means sharing a property line with a transit stop, including any parcels that serve a parking or circulation purpose related to the stop.

(b) "Commuter rail" means a rail transit service not meeting the standards for heavy rail or light rail, excluding California High-Speed Rail and Amtrak Long Distance Service.

(c) "Department" means the Department of Housing and Community Development.

(d) "Frequent commuter rail" means a commuter rail service with a total of at least 24 daily trains per weekday across both directions and not meeting the standard for very high or high-frequency commuter rail at any point in the past three years.

(e) "Heavy rail transit" means an electric railway with the capacity for a heavy volume of traffic using high-speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

(f) "High-frequency commuter rail" means a commuter rail service operating a total of at least 48 trains per day across both directions at any point in the past three years.

(g) "High-resource area" means a highest resource or high-resource neighborhood opportunity area, as used in the opportunity area maps published annually by the California Tax Credit Allocation Committee and the department.

(h) "Housing development project" has the same meaning as defined in Section 65589.5.

(i) "Light rail transit" includes streetcar, trolley, and tramway service.

(j) "Net habitable square footage" means the finished and heated floor area fully enclosed by the inside surface of walls, windows, doors, and partitions, and having a headroom of at least six and one-half feet, including

working, living, eating, cooking, sleeping, stair, hall, service, and storage areas, but excluding garages, carports, parking spaces, cellars, half-stories, and unfinished attics and basements.

(k) "Rail transit" has the same meaning as defined in Section 99602 of the Public Utilities Code.

(l) "Residential floor area ratio" means the ratio of net habitable square footage dedicated to residential use to the area of the lot.

(m) "Tier 1 transit-oriented development stop" means a transit-oriented development stop within an urban transit county served by heavy rail transit or very high frequency commuter rail.

(n) "Tier 2 transit-oriented development stop" means a transit-oriented development stop within an urban transit county, excluding a Tier 1 transit-oriented development stop, served by light rail transit, by high-frequency commuter rail, or by bus service meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code.

(o) "Tier 3 transit-oriented development stop" means a transit-oriented development stop within an urban transit county, excluding a Tier 1 or Tier 2 transit-oriented development stop, served by frequent commuter rail service or by ferry service; or any transit-oriented development stop not within an urban transit county; or any major transit stop otherwise so designated by the applicable authority.

(p) "Transit-oriented development stop" means a major transit stop, as defined by Section 21155 of the Public Resources Code, served by heavy rail transit, very high frequency commuter rail, high frequency commuter rail, light rail transit, bus service meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code, frequent commuter rail service, or ferry service, or otherwise so designated by the applicable authority.

(q) "Urban transit county" means a county with more than 15 rail stations.

(r) "Very high frequency commuter rail" means a commuter rail service with a total of at least 72 trains per day across both directions at any point in the past three years.

65912.157. (a) A housing development project ~~within one-half or one-quarter mile of a transit-oriented development stop~~ shall be an allowed use *as a transit-oriented housing development* on any site zoned for residential, mixed, or commercial ~~development,~~ *development within one-half or one-quarter mile of a transit-oriented development stop,* if the development complies with the applicable of all of the following requirements:

(1) For a ~~residential~~ *transit-oriented housing* development *project* within one-quarter mile of a Tier 1 transit-oriented development stop, all of the following apply:

~~(A)A development may be built up to 75 feet high, or up to the local height limit, whichever is greater.~~

(A) A local government shall not impose any height limit less than 75 feet.

(B) A local government shall not impose any maximum density of less than 120 dwelling units per acre. ~~The development proponent may seek a further increased density in accordance with applicable density bonus law.~~

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.5.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for three additional concessions pursuant to Section 65915.

(2) For a ~~residential~~ *transit-oriented housing* development *project* further than one-quarter mile but within one-half mile of a Tier 1 transit-oriented development stop, all of the following apply:

~~(A)A development may be built up to 65 feet high, or up to the local height limit, whichever is greater.~~

(A) A local government shall not impose any height limit less than 65 feet.

(B) A local government shall not impose any maximum density standard of less than 100 dwelling units per acre. ~~The development proponent may seek a further increased density in accordance with applicable density bonus law.~~

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for two additional concessions pursuant to Section 65915.

(3) For a ~~residential~~ *transit-oriented housing* development *project* within one-quarter mile of a Tier 2 transit-oriented development stop, all of the following apply:

~~(A)A development may be built up to 65 feet high, or up to the local height limit, whichever is greater.~~

(A) A local government shall not impose any height limit less than 65 feet.

(B) A local government shall not impose any maximum density standard of less than 100 dwelling units per acre. ~~The development proponent may seek a further increased density in accordance with applicable density bonus law.~~

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for two additional concessions pursuant to Section 65915.

(4) For a ~~residential~~ *transit-oriented housing* development *project* further than one-quarter mile but within one-half mile of a Tier 2 transit-oriented development stop, all of the following apply:

~~(A)A development may be built up to 55 feet high, or up to the local height limit, whichever is greater.~~

(A) A local government shall not impose any height limit less than 55 feet.

(B) A local government shall not impose any maximum density standard of less than 80 dwelling units per acre. ~~The development proponent may seek a further increased density in accordance with applicable density bonus law.~~

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 2.5.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for one additional concession pursuant to Section 65915.

(5) For a ~~residential~~ *transit-oriented housing* development *project* within one-quarter mile of a Tier 3 transit-oriented development stop, all of the following apply:

~~(A)A development may be built up to 55 feet high, or up to the local height limit, whichever is greater.~~

(A) A local government shall not impose any height limit less than 55 feet.

(B) A local government shall not impose any maximum density standard of less than 80 dwelling units per acre. ~~The development proponent may seek a further increased density in accordance with applicable density bonus law~~.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 2.5.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for one additional concession pursuant to Section 65915.

(6) For a ~~residential~~ *transit-oriented housing* development *project* further than one-quarter mile but within one-half mile of a Tier 3 transit-oriented development stop, all of the following apply:

~~(A)A development within an urban transit county may be built up to 45 feet high, or up to the local height limit, whichever is greater. A development not within an urban transit county may be built up to the local height limit.~~

(A) Within an urban transit county, a local government shall not impose any height limit less than 45 feet. Outside of an urban transit county, a local government may apply the local height limit.

(B) A local government shall not impose any maximum density standard of less than 60 dwelling units per acre. ~~The development proponent may seek a further increased density in accordance with applicable density bonus law.~~

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 2.

(b) A local government may still enact and enforce standards, including an inclusionary zoning requirement that applies generally within the jurisdiction, that do not, alone or in concert, prevent achieving the applicable development standards of subdivision (a).

(c) *A transit-oriented housing development project under this section may receive additional density through Section 65915 or a local density bonus program, using the density allowed under this section as the base density.* If a development proposes a height under this section in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified in this section, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.

(d) Notwithstanding any other law, a ~~housing~~ *transit-oriented housing* development project that meets any of the eligibility criteria under subdivision (a) and is immediately adjacent to a Tier 1, Tier 2, or Tier 3 transit-oriented development stop shall be eligible for an adjacency intensifier to increase the height limit by an additional 20 feet, the maximum density standard by an additional 40 dwelling units per acre, and the residential floor area ratio by 1.

(e) A development proposed pursuant to this section shall comply with the antidisplacement requirements of Section 66300.6. This subdivision shall apply to any city or county.

(f) A development proposed pursuant to this section shall include housing for lower income households in one of the following ways:

(1) If there is a local inclusionary zoning ordinance or affordable housing fee, it shall comply with the requirements of that ordinance or fee.

(2) (A) If there is no local inclusionary ordinance or affordable housing fee, a development of more than 10 units shall meet the requirements to qualify for a density bonus pursuant to subdivision (b) of Section 65915 or a local ordinance.

(B) This paragraph shall not apply to any development of 10 units or less.

(g) For purposes of subdivision (j) of Section 65589.5, a proposed housing development project that is consistent with the applicable standards from this chapter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. This subdivision shall not require a ministerial approval process or modify the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

(h) A local government that denies a housing development project meeting the requirements of this section that is located in a high-resource area shall be presumed to be in violation of the Housing Accountability Act (Section 65589.5) and immediately liable for penalties pursuant to subparagraph (B) of paragraph (1) of subdivision (k) of Section 65589.5, unless the local government demonstrates, pursuant to the standards in subdivisions (j) and (o) of Section 65589.5, that it has a health, life, or safety reason for denying the project.

65912.158. (a) Notwithstanding any other provision of this chapter, a transit agency may adopt objective standards for both residential and commercial developments proposed to be constructed on land owned by the transit agency or on which the transit agency has a permanent operating ~~easement, if the~~ *easement. These standards shall only apply for* land *that* is ~~within~~ *either:*

(1) Within one-half mile of a transit-oriented development ~~stop and the objective standards allow for the same or greater development intensity as that allowed by local standards or applicable state law.~~ *stop, if the land was owned by the transit agency on or before January 1, 2026.*

(2) Adjacent to a transit-oriented development stop, as defined in this chapter.

(b) A local government shall not be required to approve any height limit under this section greater than the height limit specified in this chapter for development adjacent to the relevant tier of a transit-oriented development stop. A transit agency shall not set a maximum height, density, or floor area ratio below that which would be allowed for the site under this chapter.

~~(b)~~

(c) The board of a transit agency may vote to designate a major transit stop served by the agency as a Tier 3 transit-oriented development stop for the purposes of this section.

65912.159. (a) A housing development project proposed pursuant to Section 65912.157 shall be eligible for streamlined ministerial approval pursuant to Section 65913.4 in accordance with all of the following:

(1) The proposed project shall be exempt from subparagraph (A) of paragraph (4) of, *and* paragraph (5) of, ~~and clause (iv) of subparagraph (A) of paragraph (6) of,~~ subdivision (a) of Section 65913.4.

(2) The proposed project shall comply with the affordability requirements in subclauses (I) to (III), inclusive, of clause (i) of subparagraph (B) of paragraph (4) of subdivision (a) of Section 65913.4.

(3) The proposed project shall comply with all other requirements of Section 65913.4, including, but not limited to, the prohibition against a site that is within a very high fire hazard severity zone, pursuant to subparagraph (D) of paragraph (6) of subdivision (a) of Section 65913.4.

(b) Any housing development proposed pursuant to Section 65912.157 not seeking streamlined approval under Section 65913.4 shall be reviewed according to the jurisdiction's development review process and Section 65589.5, except that any local zoning standard conflicting with the requirements of this chapter shall not apply.

65912.160. (a) The department shall oversee compliance with this chapter, including, but not limited to, promulgating standards on how to account for capacity pursuant to this chapter in a city or county's inventory of land suitable for residential development, pursuant to Section 65583.2.

(b) The regional council of governments or metropolitan planning organization may create a map of transit-oriented development stops and zones designated under this chapter. This map shall have a rebuttable presumption of validity for use by project applicants and local governments.

(c) (1) A local government may enact an ordinance to make its zoning code consistent with the provisions of this chapter, subject to review by the department pursuant to paragraph (3). *The ordinance may designate areas within one-half mile of a transit-oriented development stop as exempt from the provisions of this chapter if the local government makes findings supported by substantial evidence that there exists no walking path of less than one mile from that location to the transit-oriented development stop.*

(2) The ordinance described in paragraph (1) shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) (A) A local government shall submit a copy of any ordinance enacted pursuant to this section to the department within 60 days of enactment.

(B) Upon receipt of an ordinance pursuant to this paragraph, the department shall review that ordinance and determine whether it complies with this section. If the department determines that the ordinance does not comply with this section, the department shall notify the local government in writing and provide the local government a reasonable time, not to exceed 30 days, to respond before taking further action as authorized by this section.

(C) The local government shall consider any findings made by the department pursuant to subparagraph (B) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Enact the ordinance without changes. The local government shall include findings in its resolution adopting the ordinance that explain the reasons the local government believes that the ordinance complies with this section despite the findings of the department.

(D) If the local government does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local government and may notify the Attorney General that the local government is in violation of this section.

65912.161. (a) A local government may enact a local transit-oriented development alternative plan as an amendment to the housing element and land use element of its general plan, subject to review by the department.

(1) (A) A local transit-oriented development alternative plan shall maintain at least the same total increase in feasible zoned capacity, in terms of both total units and residential floor area, as provided for in this chapter across all transit-oriented development zones within the jurisdiction.

(i) The plan shall not reduce the capacity in any ~~station area,~~ *transit-oriented development zone* in total units or residential floor ~~area,~~ *area* by more than 50 percent.

(ii) The plan shall not reduce the *maximum* allowed density for any individual site ~~allowing~~ *on which the plan allows* residential use by more than 50 percent below that permitted under this chapter.

(iii) A site's maximum feasible capacity counted toward the plan shall be not more than 200 percent of the maximum density established under this chapter.

(B) For the purposes of this paragraph, both of the following definitions apply:

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

(ii) "Transit-oriented development zone" means the eligible area around a qualifying transit-oriented development stop.

(2) A local transit-oriented development alternative plan may designate any other major transit stop or stop along a high-quality transit corridor that is not already identified as a transit-oriented development stop as a Tier 3 transit-oriented development stop. A local transit-oriented development plan consisting solely of adding additional major transit stops as transit-oriented development stops shall be exempt from the requirements of paragraph (4).

(3) A local transit-oriented development alternative plan may consist of an existing local transit-oriented zoning ordinance, overlay zone, specific plan, or zoning incentive ordinance, provided that it applies to all residential properties within the transit-oriented development area and provides at least the same total feasible capacity for units and floor area as Section 65912.157.

(4) Prior to enacting a local transit-oriented development alternative plan, the local government shall submit the draft plan to the department for review. The submission shall include any amendments to the local zoning ordinances, any applicable objective design standards that would apply to transit-oriented developments, and assessments of the plan's impact on development feasibility and fair housing. The department shall assess whether the plan maintains at least an equal feasible developable housing capacity as the baseline established under this section as well as the plan's effects on fair housing relative to the baseline established under this section, and shall recommend changes to remove unnecessary constraints on housing from the plan.

(b) Section 65912.157 shall not apply within a jurisdiction that has a local transit-oriented alternative plan that has been approved by the department as satisfying the requirements of this section in effect. The department's approval pursuant to this subdivision shall be valid through the jurisdiction's next amendment to the housing element of its general plan.

65912.162. The Legislature finds and declares that the state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing, and solving the housing crisis therefore requires a multifaceted, statewide approach, including, but not limited to, encouraging an increase in the overall supply of housing, encouraging the development of housing that is affordable to households at all income levels, removing barriers to housing production, expanding homeownership opportunities, and expanding the availability of rental

housing, and is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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

SB-423 Land use: streamlined housing approvals: multifamily housing developments.

(2023-2024)

Date Published: 10/12/2023 09:00 PM

Senate Bill No. 423

CHAPTER 778

An act to amend Section 65913.4 of the Government Code, relating to land use.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 423, Wiener. Land use: streamlined housing approvals: multifamily housing developments.

Existing law, the Planning and Zoning Law, authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards, including, among others, that the development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate-income housing units required, as specified, remain available at affordable housing costs, as defined, or rent to persons and families of lower or moderate income for no less than specified periods of time. Existing law repeals these provisions on January 1, 2026.

This bill would authorize the Department of General Services to act in the place of a locality or local government, at the discretion of that department, for purposes of the ministerial, streamlined review for development in compliance with the above-described requirements on property owned by or leased to the state. The bill would extend the operation of the streamlined, ministerial approval process to January 1, 2036. The bill would provide that the streamlined, ministerial approval process does not apply to applications for developments proposed on qualified sites, defined as a site that is located within an equine or equestrian district and meets certain other requirements, that are submitted on or after January 1, 2024, but before July 1, 2025.

This bill would modify the above-described objective planning standards, including by revising the standard that prohibits a multifamily housing development from being subject to the streamlined, ministerial approval process if the development is located in a coastal zone to apply only if the development that is located in the coastal zone meets any one of specified conditions. The bill would require a development that is located in a coastal zone that satisfies the specified conditions to obtain a coastal development permit. The bill would require a public agency with coastal development permitting authority to approve a coastal development permit if it determines that the development is consistent with all objective standards of the local government’s certified local coastal program, as specified. The bill would provide that the changes made by this act would apply in a coastal zone on or after January 1, 2025.

This bill would modify the objective planning standard that prohibits a development subject to the streamlined, ministerial approval process from being located in a high fire severity zone by deleting the prohibition for a development to be located within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection, and would instead prohibit a development from being located with the state responsibility area, as defined, unless the site has adopted specified standards. The bill would also remove an exception for sites excluded from specified hazard zones by a local agency, as specified.

This bill would also provide an alternative definition for "affordable rent" for a development that dedicates 100% of units, exclusive of a manager's unit or units, to lower income households. The bill would, among other modifications, delete the objective planning standards requiring development proponents to pay at least the general prevailing rate of per diem wages and utilize a skilled and trained workforce and would instead require a development proponent to certify to the local government that certain wage and labor standards will be met, including a requirement that all construction workers be paid at least the general prevailing rate of wages, as specified. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would specify that the requirements to pay prevailing wages, use a workforce participating in an apprenticeship, or provide health care expenditures do not apply to a project that consists of 10 or fewer units and is not otherwise a public work.

Existing law requires a local government to approve a development if the local government determines the development is consistent with the objective planning standards. Existing law requires, if the local government determines a submitted development is in conflict with any of the objective planning standards, the local government to provide the development proponent written documentation of the standards the development conflicts with and an explanation for the conflict within certain timelines depending on the size of the development. Existing law, the Housing Accountability Act, prohibits a local agency from disapproving a housing development project, as described, unless it makes specified written findings.

This bill would instead require approval if a local government's planning director or equivalent position determines the development is consistent with the objective planning standards. The bill would make conforming changes. The bill would require all departments of the local government that are required to issue an approval of the development prior to the granting of an entitlement to also comply with the above-described streamlined approval requirements within specified time periods. The bill would prohibit a local government from requiring, prior to approving a development that meets the requirements of the above-described streamlining provisions, compliance with any standards necessary to receive a postentitlement permit or studies, information, or other materials that do not pertain directly to determining whether the development is consistent with the objective planning standards applicable to the development.

The bill would, for purposes of these provisions, establish that the total number of units in a development includes (1) all projects developed on a site, regardless of when those developments occur, and (2) all projects developed on sites adjacent to a site developed pursuant to these provisions if, after January 1, 2023, the adjacent site had been subdivided from the site developed pursuant to these provisions.

Existing law requires, before submitting an application for a development subject to the above-described streamlined, ministerial approval process, the development proponent to submit to the local government a notice of its intent to submit an application, as described.

For developments proposed in a census tract that is designated either as a moderate resource area, low resource area, or an area of high segregation and poverty, as described, this bill would require local governments to provide, within 45 days of receiving a notice of intent and before the development proponent submits an application for the proposed development that is subject to the streamlined, ministerial approval process, for a public meeting, as described, to provide an opportunity for the public and the local government to comment on the development. The bill would require this public meeting to be held by the jurisdiction's planning commission if the development proposal is located within a city with a population greater than 250,000 or an unincorporated area of a county with a population of greater than 250,000.

Existing law authorizes the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or as otherwise specified, to conduct any design review or public oversight of the development.

This bill would remove the above-described authorization to conduct public oversight of the development and would only authorize design review to be conducted by the local government's planning commission or any equivalent board or commission responsible for design review.

By imposing additional duties on local officials, the bill would impose a state-mandated local program.

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

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 specified reasons.
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009 of the Government Code).

(c) Restrictions on disapproval of housing developments (Section 65589.5 of the Government Code).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7 of the Government Code).

(e) Least cost zoning law (Section 65913.1 of the Government Code).

(f) Density Bonus Law (Section 65915 of the Government Code).

(g) Accessory dwelling units (Sections 65852.150 and 65852.2 of the Government Code).

(h) By-right housing, in which certain multifamily housing is designated a permitted use (Section 65589.4 of the Government Code).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863 of the Government Code).

(j) Requiring persons who sue to halt affordable housing to pay attorney's fees (Section 65914 of the Government Code) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5 of Division 1 of Title 7 of the Government Code).

(l) Limiting moratoriums on multifamily housing (Section 65858 of the Government Code).

(m) Prohibiting discrimination against affordable housing (Section 65008 of the Government Code).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code).

(o) Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413 of the Health and Safety Code).

(p) Streamlining housing approvals during a housing shortage (Section 65913.4 of the Government Code).

(q) Housing sustainability districts (Chapter 11 (commencing with Section 66200) of Division 1 of Title 7 of the Government Code).

(r) Streamlining agricultural employee housing development approvals (Section 17021.8 of the Health and Safety Code).

(s) The Housing Crisis Act of 2019 (Senate Bill 330 (Chapter 654 of the Statutes of 2019)).

(t) Allowing four units to be built on single-family parcels statewide (Senate Bill 9 (Chapter 162 of the Statutes of 2021)).

(u) The Middle Class Housing Act of 2022 (Section 65852.24 of the Government Code).

(v) Affordable Housing and High Road Jobs Act of 2022 (Chapter 4.1 (commencing with Section 65912.100) of Division 1 of Title 7 of the Government Code).

SEC. 2. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) Except as provided in subdivision (r), a development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (c) and is not subject to a conditional use permit or any other nonlegislative discretionary approval if the development complies with subdivision (b) and satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development and the site on which it is located satisfy all of the following:

(A) It is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) (i) A site that meets the requirements of clause (ii) and satisfies any of the following:

(I) The site is zoned for residential use or residential mixed-use development.

(II) The site has a general plan designation that allows residential use or a mix of residential and nonresidential uses.

(III) The site meets the requirements of Section 65852.24.

(ii) At least two-thirds of the square footage of the development is designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation. The square footage of the development shall not include underground space, such as basements or underground parking garages.

(3) (A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for no less than the following periods of time:

(i) Fifty-five years for units that are rented.

(ii) Forty-five years for units that are owned.

(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies clause (i) or (ii) of subparagraph (A) and satisfies subparagraph (B) below:

(A) (i) For a development located in a locality that is in its sixth or earlier housing element cycle, the development is located in either of the following:

(I) In a locality that the department has determined is subject to this clause on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subclause until the department's determination for the next reporting period.

(II) In a locality that the department has determined is subject to this clause on the basis that the locality did not adopt a housing element that has been found in substantial compliance with housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3) by the department. A locality shall remain eligible under this subclause until such time as the locality adopts a housing element that has been found in substantial compliance with housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3) by the department.

(ii) For a development located in a locality that is in its seventh or later housing element cycle, is located in a locality that the department has determined is subject to this clause on the basis that the locality did not adopt a housing element that has been found in substantial compliance with housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3) by the department by the statutory deadline, or that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not adopt a housing element pursuant to Section 65588 that has been found in substantial compliance with the housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3) by the department, did not submit its latest production report to the department by the time period required by Section 65400, or that production report submitted to the department reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does one of the following:

(I) For for-rent projects, the project dedicates a minimum of 10 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 50 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 50 percent of the area median income, that local ordinance applies.

(II) For for-sale projects, the project dedicates a minimum of 10 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(III) (ia) If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (I) or (II), may opt to abide by this subclause. Projects utilizing this subclause shall dedicate 20 percent of the total number of units, before calculating any density bonus, to housing affordable to households making below 100 percent of the area median income with the average income of the units at or below 80 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 100 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 100 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 100 percent of the area median income shall not exceed 30 percent of the gross income of the household.

(ib) For purposes of this subclause, "San Francisco Bay area" means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(ii) The locality's latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be

dedicated to housing affordable to households making at or below 80 percent of the area median income, that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(C) (i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in Section 65915, provided that the development proponent complies with the applicable requirements in the state or local law. If a local requirement for affordable housing requires units that are restricted to households with incomes higher than the applicable income limits required in subparagraph (B), then units that meet the applicable income limits required in subparagraph (B) shall be deemed to satisfy those local requirements for higher income units.

(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).

(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).

(D) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards for which the development is eligible pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section, or at the time a notice of intent is submitted pursuant to subdivision (b), whichever occurs earlier. For purposes of this paragraph, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

(C) It is the intent of the Legislature that the objective zoning standards, objective subdivision standards, and objective design review standards described in this paragraph be adopted or amended in compliance with the requirements of Chapter 905 of the Statutes of 2004.

(D) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(E) A project that satisfies the requirements of Section 65852.24 shall be deemed consistent with objective zoning standards, objective design standards, and objective subdivision standards if the project is consistent with the provisions of subdivision (b) of Section 65852.24 and if none of the square footage in the project is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a

residential hotel. For purposes of this subdivision, "residential hotel" shall have the same meaning as defined in Section 50519 of the Health and Safety Code.

(6) The development is not located on a site that is any of the following:

(A) (i) An area of the coastal zone subject to paragraph (1) or (2) of subdivision (a) of Section 30603 of the Public Resources Code.

(ii) An area of the coastal zone that is not subject to a certified local coastal program or a certified land use plan.

(iii) An area of the coastal zone that is vulnerable to five feet of sea level rise, as determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or a local government's coastal hazards vulnerability assessment.

(iv) In a parcel within the coastal zone that is not zoned for multifamily housing.

(v) In a parcel in the coastal zone and located on either of the following:

(I) On, or within a 100-foot radius of, a wetland, as defined in Section 30121 of the Public Resources Code.

(II) On prime agricultural land, as defined in Sections 30113 and 30241 of the Public Resources Code.

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

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

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within the state responsibility area, as defined in Section 4102 of the Public Resources Code. This subparagraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions:

(i) Section 4291 of the Public Resources Code or Section 51182, as applicable.

(ii) Section 4290 of the Public Resources Code.

(iii) Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:

(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.

(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California

Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

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

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

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

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

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

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

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) Except as provided in paragraph (9), a proponent of a development project approved by a local government pursuant to this section shall require in contracts with construction contractors, and shall certify to the local government, that the following standards specified in this paragraph will be met in project construction, as applicable:

(A) A development that is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall be subject to all of the following:

(i) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(ii) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work for those portions of the development that are not a public work.

(iii) All contractors and subcontractors for those portions of the development that are not a public work shall comply with both of the following:

(I) Pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(II) Maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section. This subclause does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subclause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(B) (i) The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this paragraph may be enforced by any of the following:

(I) The Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development.

(II) An underpaid worker through an administrative complaint or civil action.

(III) A joint labor-management committee through a civil action under Section 1771.2 of the Labor Code.

(ii) If a civil wage and penalty assessment is issued pursuant to this paragraph, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(iii) This paragraph does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing does not apply to those portions of development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker.

(D) The requirement of this paragraph to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(E) A development of 50 or more housing units approved by a local government pursuant to this section shall meet all of the following labor standards:

(i) The development proponent shall require in contracts with construction contractors and shall certify to the local government that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours shall satisfy the requirements in clauses (ii) and (iii). A construction contractor is deemed in compliance with clauses (ii) and (iii) if it is signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents.

(ii) A contractor with construction craft employees shall either participate in an apprenticeship program approved by the California Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code, or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth in Section 1777.5 of the Labor Code. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this clause.

(iii) Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two adults 40 years of age and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this clause. Qualifying expenditures shall be credited toward compliance with prevailing wage payment requirements set forth in this paragraph.

(iv) (I) The development proponent shall provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with clauses (ii) and (iii). The reports shall be considered public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection.

(II) A development proponent that fails to provide the monthly report shall be subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of ten thousand dollars ($10,000). Any contractor or subcontractor that fails to comply with clauses (ii) and (iii) shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of clauses (ii) and (iii).

(III) Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments specified in Section 1741 of the Labor Code, and may be reviewed pursuant to Section 1742 of the Labor Code. Penalties shall be deposited in the State Public Works Enforcement Fund established pursuant to Section 1771.3 of the Labor Code.

(v) Each construction contractor shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code. Each construction contractor shall submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner in accordance with subparagraph (A) of paragraph (3) of subdivision (a) of Section 1771.4 of the Labor Code. The records shall include a statement of fringe benefits. Upon request by a joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided pursuant to subdivision (e) of Section 1776 of the Labor Code.

(vi) All construction contractors shall report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days, and shall reflect those changes on the monthly report. The reports shall be considered public records pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection.

(vii) A joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a construction

contractor for failure to make health care expenditures pursuant to clause (iii) in accordance with Section 218.7 or 218.8 of the Labor Code.

(F) For any project over 85 feet in height above grade, the following skilled and trained workforce provisions apply:

(i) Except as provided in clause (ii), the developer shall enter into construction contracts with prime contractors only if all of the following are satisfied:

(I) The contract contains an enforceable commitment that the prime contractor and subcontractors at every tier will use a skilled and trained workforce, as defined in Section 2601 of the Public Contract Code, to perform work on the project that falls within an apprenticeable occupation in the building and construction trades. However, this enforceable commitment requirement shall not apply to any scopes of work where new bids are accepted pursuant to subclause (I) of clause (ii).

(II) The developer or prime contractor shall establish minimum bidding requirements for subcontractors that are objective to the maximum extent possible. The developer or prime contractor shall not impose any obstacles in the bid process for subcontractors that go beyond what is reasonable and commercially customary. The developer or prime contractor must accept bids submitted by any bidder that meets the minimum criteria set forth in the bid solicitation.

(III) The prime contractor has provided an affidavit under penalty of perjury that, in compliance with this subparagraph, it will use a skilled and trained workforce and will obtain from its subcontractors an enforceable commitment to use a skilled and trained workforce for each scope of work in which it receives at least three bids attesting to satisfaction of the skilled and trained workforce requirements.

(IV) When a prime contractor or subcontractor is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the developer that provides the following:

(ia) The prime contractor and subcontractors at every tier will comply with this chapter.

(ib) The prime contractor will provide the developer, on a monthly basis while the project or contract is being performed, a report demonstrating compliance by the prime contractor.

(ic) The prime contractor shall provide the developer, on a monthly basis while the project or contract is being performed, the monthly reports demonstrating compliance submitted to the prime contractor by the affected subcontractors.

(ii) (I) If a prime contractor fails to receive at least three bids in a scope of construction work from subcontractors that attest to satisfying the skilled and trained workforce requirements as described in this subparagraph, the prime contractor may accept new bids for that scope of work. The prime contractor need not require that a skilled and trained workforce be used by the subcontractors for that scope of work.

(II) The requirements of this subparagraph shall not apply if all contractors, subcontractors, and craft unions performing work on the development are subject to a multicraft project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. The multicraft project labor agreement shall include all construction crafts with applicable coverage determinations for the specified scopes of work on the project pursuant to Section 1773 of the Labor Code and shall be executed by all applicable labor organizations regardless of affiliation. For purposes of this clause, "project labor agreement" means a prehire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code.

(III) Requirements set forth in this subparagraph shall not apply to projects where 100 percent of the units, exclusive of a manager's unit or units, are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(iii) If the skilled and trained workforce requirements of this subparagraph apply, the prime contractor shall require subcontractors to provide, and subcontractors on the project shall provide, the following to the prime contractor:

(I) An affidavit signed under penalty of perjury that a skilled and trained workforce shall be employed on the project.

(II) Reports on a monthly basis, while the project or contract is being performed, demonstrating compliance with this chapter.

(iv) Upon issuing any invitation or bid solicitation for the project, but no less than seven days before the bid is due, the developer shall send a notice of the invitation or solicitation that describes the project to the following entities within the jurisdiction of the proposed project site:

(I) Any bona fide labor organization representing workers in the building and construction trades who may perform work necessary to complete the project and the local building and construction trades council.

(II) Any organization representing contractors that may perform work necessary to complete the project, including any contractors' association or regional builders' exchange.

(v) The developer or prime contractor shall, within three business days of a request by a joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation 8 Act of 1978 (29 U.S.C. Sec. 175a), provide all of the following:

(I) The names and Contractors State License Board numbers of the prime contractor and any subcontractors that submitted a proposal or bid for the development project.

(II) The names and Contractors State License Board numbers of contractors and subcontractors that are under contract to perform construction work.

(vi) (I) For all projects subject to this subparagraph, the development proponent shall provide to the locality, on a monthly basis while the project or contract is being performed, a report demonstrating that the self-performing prime contractor and all subcontractors used a skilled and trained workforce, as defined in Section 2601 of the Public Contract Code, unless otherwise exempt under this subparagraph. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act Division 10 (commencing with Section 7920.000) of Title 1 and shall be open to public inspection. A developer that fails to provide a complete monthly report shall be subject to a civil penalty of 10 percent of the dollar value of construction work performed by that contractor on the project in the month in question, up to a maximum of ten thousand dollars ($10,000) per month for each month for which the report has not been provided.

(II) Any subcontractors or prime contractor self-performing work subject to the skilled and trained workforce requirements under this subparagraph that fail to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the project using the same issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Prime contractors shall not be jointly liable for violations of this subparagraph by subcontractors. Penalties shall be paid to the State Public Works Enforcement Fund or the locality or its labor standards enforcement agency, depending on the lead entity performing the enforcement work.

(III) Any provision of a contract or agreement of any kind between a developer and a prime contractor that purports to delegate, transfer, or assign to a prime contractor any obligations of or penalties incurred by a developer shall be deemed contrary to public policy and shall be void and unenforceable.

(G) A locality, and any labor standards enforcement agency the locality lawfully maintains, shall have standing to take administrative action or sue a construction contractor for failure to comply with this paragraph. A prevailing locality or labor standards enforcement agency shall distribute any wages and penalties to workers in accordance with law and retain any fees, additional penalties, or assessments.

(9) Notwithstanding paragraph (8), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages, use a workforce participating in an apprenticeship, or provide health care expenditures if it satisfies both of the following:

(A) The project consists of 10 or fewer units.

(B) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) (A) (i) Before submitting an application for a development subject to the streamlined, ministerial approval process described in subdivision (c), the development proponent shall submit to the local government a notice of its intent to submit an application. The notice of intent shall be in the form of a preliminary application that includes all of the information described in Section 65941.1, as that section read on January 1, 2020.

(ii) Upon receipt of a notice of intent to submit an application described in clause (i), the local government shall engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area, as described in Section 21080.3.1 of the Public Resources Code, of the proposed development. In order to expedite compliance with this subdivision, the local government shall contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development.

(iii) The timeline for noticing and commencing a scoping consultation in accordance with this subdivision shall be as follows:

(I) The local government shall provide a formal notice of a development proponent's notice of intent to submit an application described in clause (i) to each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development within 30 days of receiving that notice of intent. The formal notice provided pursuant to this subclause shall include all of the following:

(ia) A description of the proposed development.

(ib) The location of the proposed development.

(ic) An invitation to engage in a scoping consultation in accordance with this subdivision.

(II) Each California Native American tribe that receives a formal notice pursuant to this clause shall have 30 days from the receipt of that notice to accept the invitation to engage in a scoping consultation.

(III) If the local government receives a response accepting an invitation to engage in a scoping consultation pursuant to this subdivision, the local government shall commence the scoping consultation within 30 days of receiving that response.

(B) The scoping consultation shall recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the resource to the culturally affiliated California Native American tribe.

(C) The parties to a scoping consultation conducted pursuant to this subdivision shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development may participate in the scoping consultation. However, the local government, upon the request of any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development, shall engage in a separate scoping consultation with that California Native American tribe. The development proponent and its consultants may participate in a scoping consultation process conducted pursuant to this subdivision if all of the following conditions are met:

(i) The development proponent and its consultants agree to respect the principles set forth in this subdivision.

(ii) The development proponent and its consultants engage in the scoping consultation in good faith.

(iii) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping consultation, either for the duration of the scoping consultation or with respect to any particular meeting or discussion held as part of the scoping consultation.

(D) The participants to a scoping consultation pursuant to this subdivision shall comply with all of the following confidentiality requirements:

(i) Section 7927.000.

(ii) Section 7927.005.

(iii) Subdivision (c) of Section 21082.3 of the Public Resources Code.

(iv) Subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(v) Any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.

(E) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to a scoping consultation conducted pursuant to this subdivision.

(2) (A) If, after concluding the scoping consultation, the parties find that no potential tribal cultural resource would be affected by the proposed development, the development proponent may submit an application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c).

(B) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal cultural resource treatment, the development proponent may submit the application for a development subject to the streamlined, ministerial approval process described in subdivision (c). The local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

(C) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local government regarding methods, measures, and conditions for tribal cultural resource treatment, the development shall not be eligible for the streamlined, ministerial approval process described in subdivision (c).

(D) For purposes of this paragraph, a scoping consultation shall be deemed to be concluded if either of the following occur:

(i) The parties to the scoping consultation document an enforceable agreement concerning methods, measures, and conditions to avoid or address potential impacts to tribal cultural resources that are or may be present.

(ii) One or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to tribal cultural resources that are or may be present cannot be reached.

(E) If the development or environmental setting substantially changes after the completion of the scoping consultation, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe.

(3) A local government may only accept an application for streamlined, ministerial approval pursuant to this section if one of the following applies:

(A) A California Native American tribe that received a formal notice of the development proponent’s notice of intent to submit an application pursuant to subclause (I) of clause (iii) of subparagraph (A) of paragraph (1) did not accept the invitation to engage in a scoping consultation.

(B) The California Native American tribe accepted an invitation to engage in a scoping consultation pursuant to subclause (II) of clause (iii) of subparagraph (A) of paragraph (1) but substantially failed to engage in the scoping consultation after repeated documented attempts by the local government to engage the California Native American tribe.

(C) The parties to a scoping consultation pursuant to this subdivision find that no potential tribal cultural resource will be affected by the proposed development pursuant to subparagraph (A) of paragraph (2).

(D) A scoping consultation between a California Native American tribe and the local government has occurred in accordance with this subdivision and resulted in agreement pursuant to subparagraph (B) of paragraph (2).

(4) A project shall not be eligible for the streamlined, ministerial process described in subdivision (c) if any of the following apply:

(A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

(B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation conducted pursuant to this subdivision do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2).

(C) The parties to a scoping consultation conducted pursuant to this subdivision do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(5) (A) If, after a scoping consultation conducted pursuant to this subdivision, a project is not eligible for the streamlined, ministerial process described in subdivision (c) for any or all of the following reasons, the local government shall provide written documentation of that fact, and an explanation of the reason for which the project is not eligible, to the development proponent and to any California Native American tribe that is a party to that scoping consultation:

(i) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project, as described in subparagraph (A) of paragraph (4).

(ii) The parties to the scoping consultation have not documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B) of paragraph (4).

(iii) The parties to the scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the proposed development, as described in subparagraph (C) of paragraph (4).

(B) The written documentation provided to a development proponent pursuant to this paragraph shall include information on how the development proponent may seek a conditional use permit or other discretionary approval of the development from the local government.

(6) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under state and federal law, or the ability of a California Native American tribe to submit information to the local government or participate in any process of the local government.

(7) For purposes of this subdivision:

(A) "Consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the "State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines" prepared by the Office of Planning and Research.

(B) "Scoping" means the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential tribal cultural resource, as defined in Section 21074 of the Public Resources Code, or California Native American tribe, as defined in Section 21073 of the Public Resources Code.

(8) This subdivision shall not apply to any project that has been approved under the streamlined, ministerial approval process provided under this section before the effective date of the act adding this subdivision.

(c) (1) Notwithstanding any local law, if a local government's planning director or equivalent position determines that a development submitted pursuant to this section is consistent with the objective planning standards specified in subdivision (a) and pursuant to paragraph (3) of this subdivision, the local government shall approve the development. Upon a determination that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), the local government staff or relevant local planning and permitting department that made the determination shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government's planning director or equivalent position fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(3) For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards. The local government shall not determine that a development, including an application for a modification under subdivision (h), is in conflict with the objective planning standards on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(4) Upon submittal of an application for streamlined, ministerial approval pursuant to this section to the local government, all departments of the local government that are required to issue an approval of the development prior to the granting of an entitlement shall comply with the requirements of this section within the time periods specified in paragraph (1).

(d) (1) Any design review of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for design review. That design review shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review shall be completed, and if the development is consistent with all objective standards, the local government shall approve the development as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (9) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be subject to the public oversight timelines set forth in paragraph (1).

(3) If a local government determines that a development submitted pursuant to this section is in conflict with any of the standards imposed pursuant to paragraph (1), it shall provide the development proponent written documentation of which objective standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that objective standard or standards consistent with the timelines described in paragraph (1) of subdivision (c).

(e) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

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

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

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

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

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

(f) Notwithstanding any law, a local government shall not require any of the following prior to approving a development that meets the requirements of this section:

(1) Studies, information, or other materials that do not pertain directly to determining whether the development is consistent with the objective planning standards applicable to the development.

(2) (A) Compliance with any standards necessary to receive a postentitlement permit.

(B) This paragraph does not prohibit a local agency from requiring compliance with any standards necessary to receive a postentitlement permit after a permit has been issued pursuant to this section.

(C) For purposes of this paragraph, "postentitlement permit" has the same meaning as provided in subparagraph (A) of paragraph (3) of subdivision (j) of Section 65913.3.

(g) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project satisfies both of the following requirements:

(A) The project includes public investment in housing affordability, beyond tax credits.

(B) At least 50 percent of the units are affordable to households making at or below 80 percent of the area median income.

(2) (A) If a local government approves a development pursuant to this section, and the project does not satisfy the requirements of subparagraphs (A) and (B) of paragraph (1), that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided construction activity, including demolition and grading activity, on the development site has begun pursuant to a permit issued by the local jurisdiction and is in progress. For purposes of this subdivision, "in progress" means one of the following:

(i) The construction has begun and has not ceased for more than 180 days.

(ii) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.

(B) Notwithstanding subparagraph (A), a local government may grant a project a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If the development proponent requests a modification pursuant to subdivision (h), then the time during which the approval shall remain valid shall be extended for the number of days between the submittal of a modification request and the date of its final approval, plus an additional 180 days to allow time to obtain a

building permit. If litigation is filed relating to the modification request, the time shall be further extended during the pendency of the litigation. The extension required by this paragraph shall only apply to the first request for a modification submitted by the development proponent.

(4) The amendments made to this subdivision by the act that added this paragraph shall also be retroactively applied to developments approved prior to January 1, 2022.

(h) (1) (A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (c) if that request is submitted to the local government before the issuance of the final building permit required for construction of the development.

(B) Except as provided in paragraph (3), the local government shall approve a modification if it determines that the modification is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.

(C) The local government shall evaluate any modifications requested pursuant to this subdivision for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved for streamlined, ministerial approval pursuant to subdivision (c).

(D) A guideline that was adopted or amended by the department pursuant to subdivision (n) after a development was approved through the streamlined, ministerial approval process described in subdivision (c) shall not be used as a basis to deny proposed modifications.

(2) Upon receipt of the development proponent's application requesting a modification, the local government shall determine if the requested modification is consistent with the objective planning standard and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

(3) Notwithstanding paragraph (1), the local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

(A) The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more. The calculation of the square footage of construction changes shall not include underground space.

(B) The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact. The calculation of the square footage of construction changes shall not include underground space.

(C) (i) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modification applications that are submitted prior to the first building permit application. Those standards may be applied to modification applications submitted after the first building permit application if agreed to by the development proponent.

(ii) The amendments made to clause (i) by the act that added clause (i) shall also be retroactively applied to modification applications submitted prior to January 1, 2022.

(4) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(i) (1) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(2) (A) A local government shall issue a subsequent permit required for a development approved under this section if the application substantially complies with the development as it was approved pursuant to subdivision (c). Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved pursuant to this section. The local government shall consider the application for subsequent permits based upon the objective standards specified in any state or local laws that were in effect when the original development application was submitted, unless the development proponent agrees to a change in objective standards. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this paragraph, a "subsequent permit" means a permit required subsequent to receiving approval under subdivision (c), and includes, but is not limited to, demolition, grading, encroachment, and building permits and final maps, if necessary.

(B) The amendments made to subparagraph (A) by the act that added this subparagraph shall also be retroactively applied to subsequent permit applications submitted prior to January 1, 2022.

(3) (A) If a public improvement is necessary to implement a development that is subject to the streamlined, ministerial approval pursuant to this section, including, but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway, street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and any related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.

(B) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall do all of the following:

(i) Consider the application based upon any objective standards specified in any state or local laws that were in effect when the original development application was submitted.

(ii) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project that is not eligible to receive ministerial or streamlined approval pursuant to this section.

(C) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall not do either of the following:

(i) Adopt or impose any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(ii) Unreasonably delay in its consideration, review, or approval of the application.

(j) (1) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(2) This section shall not prevent a development from also qualifying as a housing development project entitled to the protections of Section 65589.5. This paragraph does not constitute a change in, but is declaratory of, existing law.

(k) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to:

(1) Lease, convey, or encumber land owned by the local government or the San Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible TOD project, as defined pursuant to Section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(2) Approve improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval

pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(l) For purposes of establishing the total number of units in a development under this chapter, a development or development project includes both of the following:

(1) All projects developed on a site, regardless of when those developments occur.

(2) All projects developed on sites adjacent to a site developed pursuant to this chapter if, after January 1, 2023, the adjacent site had been subdivided from the site developed pursuant to this chapter.

(m) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing cost" has the same meaning as set forth in Section 50052.5 of the Health and Safety Code.

(2) (A) Subject to the qualification provided by subparagraphs (B) and (C), "affordable rent" has the same meaning as set forth in Section 50053 of the Health and Safety Code.

(B) For a development for which an application pursuant to this section was submitted prior to January 1, 2019, that includes 500 units or more of housing, and that dedicates 50 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at, or below, 80 percent of the area median income, affordable rent for at least 30 percent of these units shall be set at an affordable rent as defined in subparagraph (A) and "affordable rent" for the remainder of these units shall mean a rent that is consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(C) For a development that dedicates 100 percent of units, exclusive of a manager's unit or units, to lower income households, "affordable rent" shall mean a rent that is consistent with the maximum rent levels stipulated by the public program providing financing for the development.

(3) "Department" means the Department of Housing and Community Development.

(4) "Development proponent" means the developer who submits a housing development project application to a local government under the streamlined ministerial review process pursuant to this section.

(5) "Completed entitlements" means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) "Health care expenditures" include contributions under Section 401(a), 501(c), or 501(d) of the Internal Revenue Code and payments toward "medical care," as defined in Section 213(d)(1) of the Internal Revenue Code.

(7) "Housing development project" has the same meaning as in Section 65589.5.

(8) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(9) "Moderate-income housing units" means housing units with an affordable housing cost or affordable rent for persons and families of moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(10) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(11) "State agency" includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(12) (A) "Reporting period" means either of the following:

(i) The first half of the regional housing needs assessment cycle.

(ii) The last half of the regional housing needs assessment cycle.

(B) Notwithstanding subparagraph (A), "reporting period" means annually for the City and County of San Francisco.

(13) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(n) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(o) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (c) is not a "project" as defined in Section 21065 of the Public Resources Code.

(p) Notwithstanding any law, for purposes of this section and for development in compliance with the requirements of this section on property owned by or leased to the state, the Department of General Services may act in the place of a locality or local government, at the discretion of the department.

(q) (1) For developments proposed in a census tract that is designated either as a moderate resource area, low resource area, or an area of high segregation and poverty on the most recent "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development, within 45 days after receiving a notice of intent, as described in subdivision (b), and before the development proponent submits an application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c), the local government shall provide for a public meeting to be held by the city council or county board of supervisors to provide an opportunity for the public and the local government to comment on the development.

(2) The public meeting shall be held at a regular meeting and be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(3) If the development proposal is located within a city with a population of greater than 250,000 or the unincorporated area of a county with a population of greater than 250,000, the public meeting shall be held by the jurisdiction's planning commission.

(4) Comments may be provided by testimony during the meeting or in writing at any time before the meeting concludes.

(5) The development proponent shall attest in writing that it attended the meeting described in paragraph (1) and reviewed the public testimony and written comments from the meeting in its application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c).

(6) If the local government fails to hold the hearing described in paragraph (1) within 45 days after receiving the notice of intent, the development proponent shall hold a public meeting on the proposed development before submitting an application pursuant to this section.

(r) (1) This section shall not apply to applications for developments proposed on qualified sites that are submitted on or after January 1, 2024, but before July 1, 2025.

(2) For purposes of this subdivision, "qualified site" means a site that meets the following requirements:

(A) The site is located within an equine or equestrian district designated by a general plan or specific or master plan, which may include a specific narrative reference to a geographically determined area or map of the same. Parcels adjoined and only separated by a street or highway shall be considered to be within an equestrian district.

(B) As of January 1, 2024, the general plan applicable to the site contains, and has contained for five or more years, an equine or equestrian district designation where the site is located.

(C) As of January 1, 2024, the equine or equestrian district applicable to the site is not zoned to include residential uses, but authorizes residential uses with a conditional use permit.

(D) The applicable local government has an adopted housing element that is compliant with applicable law.

(3) The Legislature finds and declares that the purpose of this subdivision is to allow local governments to conduct general plan updates to align their general plan with applicable zoning changes.

(s) The provisions of clause (iii) of subparagraph (E) of paragraph (8) of subdivision (a) relating to health care expenditures are distinct and severable from the remaining provisions of this section. However, the remaining portions of paragraph (8) of subdivision (a) are a material and integral part of this section and are not severable. If any provision or application of paragraph (8) of subdivision (a) is held invalid, this entire section shall be null and void.

(t) (1) The changes made to this section by the act adding this subdivision shall apply in a coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code, on and after January 1, 2025.

(2) In an area of the coastal zone not excluded under paragraph (6) of subdivision (a), a development that satisfies the requirements of subdivision (a) shall require a coastal development permit pursuant to Chapter 7 (commencing with Section 30600) of Division 20 of the Public Resources Code. A public agency with coastal development permitting authority shall approve a coastal development permit if it determines that the development is consistent with all objective standards of the local government's certified local coastal program or, for areas that are not subject to a fully certified local coastal program, the certified land use plan of that area.

(3) For purposes of this section, receipt of any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under Section 65915 shall not constitute a basis to find the project inconsistent with the local coastal program.

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

(v) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

SEC. 3. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act amending Section 65913.4 of the Government Code applies to all cities, including charter cities.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

2025-2026 Legislative Session
As of Tuesday, July 1, 2025

Measure	Title and Brief Summary	Lobbyist	CSAC Position	Subject
SB 79 (Wiener D)	**Housing development: transit-oriented development.** The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a land use element and a housing element. Current law requires that the land use element designate the proposed general distribution and general location and extent of the uses of the land, as specified. Current law requires that the housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing, as specified. Current law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Current law, for the 4th and subsequent revisions of the housing element,	Mark Neuburger	Dropped Opposition/Neutral	Housing, Land Use and Transportation

Measure	Title and Brief Summary	Lobbyist	CSAC Position	Subject
	requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region. This bill would require that a housing development project, as defined, within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use as a transit-oriented housing development on any site zoned for residential, mixed, or commercial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed			

Measure	Title and Brief Summary	Lobbyist	CSAC Position	Subject
	requirements, as specified. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. (Based on 06/23/2025 text)			

Measure	Title and Brief Summary	Lobbyist	CSAC Position	Subject
SB 79 (Wiener D)	**Housing development: transit-oriented development.** The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a land use element and a housing element. Current law requires that the land use element designate the proposed general distribution and general location and extent of the uses of the land, as specified. Current law requires that the housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing, as specified. Current law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Current law, for the 4th and subsequent revisions of the housing element,	Ryan Morimune	Watch	Administration of Justice

Measure	Title and Brief Summary	Lobbyist	CSAC Position	Subject
	requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region. This bill would require that a housing development project, as defined, within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use as a transit-oriented housing development on any site zoned for residential, mixed, or commercial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed			

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Total Measures: 1
Total Tracking Forms: 2

March 26, 2025

The Honorable Scott Wiener
Senator, California State Senate
1021 O St, Suite 8620
Sacramento, CA 95814

RE: **SB 79 (Wiener) Transit-oriented Development**
Notice of Opposition

Dear Senator Scott Wiener,

The League of California Cities writes to express our strong opposition to your SB 79 (Wiener), which would disregard state-certified housing elements and bestow land use authority to transit agencies without any requirement that developers build housing, let alone affordable housing.

SB 79 doubles down on the recent trend of the state overriding its own mandated local housing elements. This latest overreaching effort forces cities to approve transit-oriented development projects near specified transit stops — up to seven stories high and a density of 120 homes per acre — without regard to the community's needs, environmental review, or public input.

Most alarmingly, SB 79 defies cities' general plans and provides transit agencies unlimited land use authority on property they own or have a permanent easement, regardless of the distance from a transit stop. Transit agencies would have the power to determine all aspects of the development including height, density, and design, without any regard to local zoning or planning.

This broad new authority applies to both residential and commercial development. Transit agencies could develop 100% commercial projects — even at transit stops — and not provide a single new home, while simultaneously making the argument that more housing must be constructed around transit stops.

Cal Cities appreciates and respects your desire to pursue a housing production proposal. However, as currently drafted, SB 79 will not spur much-needed housing construction in a manner that supports local flexibility, decision-making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements.

California will never produce the number of homes needed with an increasingly state-driven, by-right housing approval process. What we really need is a sustainable state investment that matches the scale of this decades-in-the-making crisis. For these reasons, Cal Cities opposes SB 79. Please do not hesitate to contact me to discuss this in greater detail at (916) 658-8264.

Sincerely,

Jason Rhine, Senior Director, Legislative Affairs

Office of the Los Angeles City Attorney
Hydee Feldstein Soto

May 23, 2025

Via E-mail

The Honorable Senator Anna Caballero
Chair, Senate Appropriations Committee
California State Senate
1021 O Street, Room 7620
Sacramento, CA 95814

RE: SB 79 (Wiener) – OPPOSE Unless Amended

Dear Honorable Chair Caballero,

For numerous reasons set forth below, I respectfully oppose SB 79 (Wiener). SB 79's mandates apply to all cities, including charter cities like Los Angeles, and explicitly state that no State reimbursement will be provided under Government Code Section 17556. This letter is limited to the assessment of mandated costs for which the State is responsible in the event SB 79 were to become law.[1]

A. Billions of Dollars in Additional Costs to Communities

SB 79 establishes new state zoning standards within a half-mile radius of every train station and bus rapid transit stop, overriding local zoning to permit by right multi-family homes of up to six stories. While the intent of SB 79 is to further address issues around the supply of housing, the bill's provisions impermissibly impose billions of dollars of costs on Los Angeles and other local jurisdictions, undermine local governance, circumvent local decision-making processes, and impose unintended burdens on communities.

[1] Our office reserves all rights with regard to other objections including unconstitutionality of SB 79.

For reasons further explained below, SB 79 clearly imposes billions of dollars from our local taxpayers for infrastructure expansion and remediation (e.g., water/sewer/stormwater systems, trash collection, road upgrades and signals, and power grid upgrades; first responder and mobility costs; environmental oversight costs; traffic, parking and livability impacts; and administrative and legal compliance costs) without constitutionally required reimbursement from the State.

While a complete analysis and projection of expenses would take many months to prepare, even a cursory analysis of the primary infrastructure and direct services required to support just three (3) new high-density developments in each of the City of LA's 99 Neighborhood Council Districts would require the following:

A. Infrastructure Expansion

Component	Projected Unit Cost	Multiplier	Projected Subtotal
Water/sewer/stormwater	$3,500/unit	30,000 units	$105 million
Water pipe installation	$1.25 million per development	300 developments	$375 million
Sewer/stormwater installation	$230K per development	300 developments	$70 million
Road Upgrades /signals	$1.2 million per mile	100 miles	$120 million
Power grid	$750K per development	300 developments	$225 million
Solid waste pickup/management	$60K annually per development	300 developments	$18 million
Solid waste transfer station	$20 million per station	2 stations	$40 million
Materials recovery facility	$15 million per facility	2 facilities	$30 million
Organics processing facility	$18 million per facility	1 facility	$18 million
		Projected Subtotal	**$1.001B**

B. First Responder Costs

Service Area	Assumptions	Estimate
Fire stations	15 stations @ $20 million each	$300 million
Fire staffing	Annual cost for 15 stations	$170 million
Fire equipment	15 stations @ $8 million each	$120 million
Police Staffing	$900 per resident annually	$27 million
Recruitment/training	$800K/year for 5 years	$4 million
	Subtotal	**$621M**

Totals for A & B	**$1.622B**[2]

[2] These costs do not include the necessary administrative personnel costs and legal costs associated with planning and development staff, legal defense costs, and added judgment and settlement payouts all of which are hard to estimate but have been steadily escalating over the past several years.

The charter City of Los Angeles is spread out across more than 450 square miles and its existing water, sewer, stormwater, solid waste, and power grid infrastructure is planned and laid out under zoning where the existing infrastructure in low-density zones (1-4 units) is vastly different than the existing infrastructure needs and demands of higher-density zones (5+ units).

Higher density developments will lead to significantly greater volumes of waste, recyclables and organics, and will intensify the City's obligation to meet the regulatory requirements under SB 1383 (organics diversion), SB 54 (packaging and plastics reduction), and SB 238 (local government reporting and compliance) – all of which require a significant increase in resources. With the City's only operating landfill scheduled to close, long-haul waste transport will become a major logistical and financial burden. High-density urban development also overwhelms existing collection routes and infrastructure – especially in areas with limited space for bin placement and restricted access for collection vehicles. Mid-rise and high-rise developments require more complex collection systems that come with their own compliance challenges. Finally, Greenhouse Gas (GHG) Impact Studies will be required to assess the environmental impacts of increased waste generation and transportation, especially considering the shift to long-hauling.

Higher density developments also put extreme pressure on existing electrical systems, leading to challenges like overloaded transformers and over-burdened energy storage systems. In order to meet the demands of high-density projects, cities must update their power grid infrastructure to meet increased demand and support for electrification, including considering a mandate that developments with four or more units be served by <u>underground</u> infrastructure. This upgrade is to accommodate growing electric loads from electric vehicles and heating/cooling systems, and ensuring safety (including ***fire*** safety) and reliability in the power supply. According to the Los Angeles Department of Water and Power (LADWP), only 4% of LA's transmission lines are underground, while 54% of LA's distribution lines are underground. The LADWP has sounded the alarm on the need for undergrounding projects, particularly after many recent wildfires and especially in higher density areas. To meet enhanced standards for safety and reliability, high-density projects should be served by underground power infrastructure. For lower-voltage distribution lines that deliver electricity to homes and businesses, undergrounding costs 3 to 10 times as much as overhead installation. High-voltage transmission lines, which carry electricity over longer distances, can cost 10 to 14 times more than overhead lines in urban areas like Los Angeles. Even if overhead lines are maintained, the current distribution and transmission infrastructure in any low density zone would have to be replaced to meet the power needs of higher density developments, including upgrading individual transformers for each development.

Beyond the billions of dollars in out-of-pocket direct costs from SB 79, there are significant additional indirect costs associated with the bill that LA's taxpayers will have to cover and that must be paid or reimbursed by the State. The indirect costs cannot

reasonably be estimated without specific development plans but they include stormwater runoff and flood mitigation; urban heat island effects, emergency services equipment, displacement mitigation and homeless services, liability and legal risks, and civic engagement and public records requests.[3]

Article XIII, Section 35(a)(3) of the California Constitution expressly states that "public safety is the first responsibility of local government," thereby obligating cities and counties to ensure that law enforcement, fire protection, and emergency services are not undermined by state-mandated programs. Our city recently experienced the tragedy of the Palisades Fire which highlighted the need for properly funded and staffed first responders. The current uncertainty regarding future levels of federal funding for local government increases the fiscal risks posed by unfunded state mandates. Cities facing declining or unpredictable federal support will be even less able to absorb new unfunded obligations imposed by the State. SB 79 could not be more poorly timed for Los Angeles.

B. Government Code Section 17556

Government Code Section 17556 permits the State to pass general laws without reimbursement ***only*** if cities can increase local charges to cover the increase in costs. However, California constitutional provisions, including Proposition 13, Proposition 218, and Proposition 26, limit the ability of cities to impose or raise taxes, assessments, and fees without voter approval, thereby severely restricting cities' ability to recover the cost of state-mandated programs.

The California Courts have also ruled that a city cannot impose developer fees to fund general infrastructure improvements needed because of pre-existing deficiencies. In *Bixel Associates v. City of Los Angeles*, 216 Cal.App.3d 1210 (1989), the California Court of Appeal for the Second Appellate District held that developer fees must be limited to direct impacts from the new project. Attempting to use fees for broader fixes converts them into unlawful special taxes. Because State mandates like SB 79 require new density without enabling cities to recover the actual infrastructure costs, the mandates create unfunded obligations in the billions of dollars.

[3] While school-related costs are not on the City's budget, the same taxpayers foot the bill, and our school districts throughout California will also face significant unreimbursed costs under SB 79 for facilities, new classroom capacity, additional staffing, and transportation and special needs services. Using data related to California's average student/teacher ratio of 22:1, to serve an additional 15,000 students (based on the average high-density population of 30,000 new residents in the new 300 high-density projects), approximately 650 new classrooms would be needed. At an average cost of roughly $500K per classroom (with some estimates as much as $1.5M per classroom in the larger cities), that adds **$325M**. Additional annual staffing costs at one teacher per classroom adds another **$52M** per year. Existing facility upgrades would cost **$60M**, and annual bus and special need transportation services for the new population of 30,000 would be **$12M**.

For these reasons, I respectfully oppose SB 79 as drafted and proposed. I am available at your convenience to provide further detail and discuss the costs for which the State must reimburse the City of Los Angeles in the event that SB 79 were to become law.

Sincerely,

Hydee Feldstein Soto
Los Angeles City Attorney

cc: Senate Appropriations Vice Chair Kelly Seyarto
Senator Christopher Cabaldon
Senator Megan Dahle
Senator Tim Grayson
Senator Laura Richardson
Senator Aisha Wahab

Los Angeles Mayor Karen Bass
Los Angeles City Council
Los Angeles Controller Kenneth Mejia
Los Angeles City Administrative Officer Matt Szabo

Member, Board of Supervisors
District 7

City and County of San Francisco

MYRNA MELGAR

DATE: July 9, 2025

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, July 15, 2025

File No. 250542 **Planning Code - Fenestration, Transparency, and Sign Requirements Generally; Sales and Service Uses in the C-3 and RC Districts**
Sponsor: Mayor; Sauter, Dorsey, Mahmood, and Sherrill

File No. 250727 **Opposing California State Senate Bill No. 79 (Wiener) Unless Amended - Housing Development: Transit-Oriented Development**
Sponsors: Chan; Chen and Fielder

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 14, 2025.

City Hall · 1 Dr. Carlton B. Goodlett Place, Room 244 · San Francisco, California 94102-4689 · (415) 554-6516
TDD/TTY (415) 554-5227 · E-mail: Myrna.Melgar@sfgov.org

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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2025 JUL 01 PM03:09

I hereby submit the following item for introduction (select only one):

- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ■ 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor _____ inquires…"
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. _____ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No. _____
- ☐ 9. Reactivate File No. _____
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☐ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Chan, Chen

Subject:

Opposing California State Senate Bill 79 (Wiener) Unless Amended

Long Title or text listed:

Resolution opposing California State Senate Bill 79 (Wiener) and similar future legislation, unless amended to give Local governments adequate ability to formulate local plans through its local legislative process, in which local governments and residents have adequate review and oversight of community planning, including affordability requirements, and residential and commercial tenant protections.

Signature of Sponsoring Supervisor: