

BOARD of SUPERVISORS



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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

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

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: May 4, 2021

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, May 4, 2021

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, May 4, 2021. This item was acted upon at the Committee Meeting on Monday, May 3, 2021, at 1:30 p.m., by the votes indicated.

Item No. 26 **File No. 210353**

Resolution supporting California State Senate Bill No. 37, Contaminated Site Cleanup and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of the commonsense exemption to be applied to construction projects located on contaminated sites identified on the state's Cortese List.

AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Vote: Supervisor Myrna Melgar - Aye
Supervisor Dean Preston - Aye
Supervisor Aaron Peskin - Aye

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Myrna Melgar - Aye
Supervisor Dean Preston - Aye
Supervisor Aaron Peskin - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney
Kristen Jensen, Deputy City Attorney

File No. 210353 Committee Item No. 2
Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date May 3, 2021

Board of Supervisors Meeting Date May 4, 2021

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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Completed by: Erica Major Date April 29, 2021

Completed by: Erica Major Date May 4, 2021

1 [Supporting California State Senate Bill No. 37 (Cortese) - Contaminated Sites]

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3 **Resolution supporting California State Senate Bill No. 37, Contaminated Site Cleanup**
4 **and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of**
5 **the commonsense exemption to be applied to construction projects located on**
6 **contaminated sites identified on the state’s Cortese List.**

7

8 WHEREAS, The City and County of San Francisco has approximately 2000
9 underground storage tanks that have leaked hazardous substances such as the known
10 human carcinogen benzene due to previous industrial and/or commercial uses, and these are
11 identified on a comprehensive site known as the Cortese List; and

12 WHEREAS, The Cortese List is maintained and updated by the state of California's
13 Department of Toxic Substances Control (DTSC) to mitigate the risks to public health, safety,
14 and the environment from hazardous waste sites as well as underground storage tanks where
15 unauthorized releases have been documented, under California Government Code, Section
16 65926.5; and

17 WHEREAS, Housing development can occur on sites that have suspected or detected
18 contamination, with existing industrial sites in San Francisco that have been managed under
19 the Local Oversight Program, and housing redevelopment on these sites requiring a more
20 stringent process to mitigate hazards through the City’s Maher ordinance, a unique program
21 managed by the San Francisco Department of Public Health as a state-certified agency that is
22 designed to ensure cleanup of toxic substances based on standards for human habitation and
23 regulated through Article 22A of the San Francisco Health Code and Article 106.A.3.4.2 of the
24 San Francisco Building Code; and

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1 WHEREAS, Since 2015 at least 20 of these sites were considered for, or received a
2 categorical exemption from, the state’s environmental regulatory process known as the
3 California Environmental Quality Act or CEQA, in direct conflict with the legal mandate that a
4 categorical exemption cannot be issued for a project proposed for construction on any
5 Cortese List site, as established by CEQA statutes in Section 21084(d); and

6 WHEREAS, Categorical exemptions to environmental review under CEQA are defined
7 according to over 30 classes of projects including work on existing facilities, minor alterations
8 to land, small residential projects and other structures, as well as certain legal and regulatory
9 actions that don't involve physical alterations of property; and

10 WHEREAS, The common sense exemption is allowed in Title 14 CCR § 15061(b)(3),
11 for projects “where it can be seen with certainty that there is no possibility that the activity in
12 question may have a significant effect on the environment, the activity is not subject to
13 CEQA;” and

14 WHEREAS, The implementation of the City’s Maher program provides a process for
15 mitigating impacts from contaminated sites, but nothing in local or state law, including CEQA,
16 allows a CEQA exemption for a project proposed to be constructed on a Cortese List site,
17 even if the project will undergo environmental review pursuant to the Maher Ordinance or
18 other local ordinance; and

19 WHEREAS, The Maher program is not subject to a public process that allows for
20 scrutiny, oversight, or publicly documented procedures that are site-specific to ensure that
21 environmental protections or mitigation efforts have been properly undertaken on industrial
22 sites where toxic substances may have been discharged into the soil or subsurface
23 groundwater, and where the potential for exposure of residents, workers, the public and the
24 environment are serious considerations; and

1 WHEREAS, A preliminary mitigated negative declaration under CEQA requires a
2 clean-up plan for a contaminated site that must be presented to the public for at least a 20-
3 day public review and comment period so that the public may review the plan and ensure that
4 it is adequate to safeguard the health and safety of neighbors, future residents, construction
5 workers and others; and

6 WHEREAS, AB 869 was adopted by the California legislature in 1991, adding Section
7 21084(d) to CEQA following several construction projects in which building trades workers
8 were inadvertently exposed to toxic chemicals during projects built on contaminated sites, with
9 the passage of AB 869 assuring that workers and members of the public would be made
10 aware of soil contamination prior to construction so that proper safeguards would be
11 implemented and adequate clean-up would be undertaken; and

12 WHEREAS, Other major cities throughout California routinely require CEQA review for
13 projects proposed to be constructed on contaminated sites on the Cortese List, typically
14 requiring preparation of a mitigated negative declaration, allowing the public to review and
15 comment on the proposed clean-up plan for at least 20 days; and

16 WHEREAS, The San Francisco Chronicle reported on a case involving a 100-year-old
17 automobile repair shop that was proposed to be converted to residential condominiums
18 located at 1776 Green Street in San Francisco, which was on the Cortese List due to the
19 presence of benzene and other toxic chemicals from leaking underground storage tanks,
20 where— despite the presence of benzene at levels 900 times above residential standards,
21 and 200 times above commercial standards— the San Francisco Planning Department issued
22 a CEQA categorical exemption for the proposed project; and

23 WHEREAS, At least 20 sites in San Francisco on the Cortese List received categorical
24 exemptions from the Planning Department since 2015, with 12 of these sites documented with
25

1 addresses in the San Francisco Chronicle report, which describes these as current and future
2 projects providing more than 250 housing units throughout the City; and

3 WHEREAS, The San Francisco Planning Department had indicated that it received
4 faulty communication from the state regarding the application of categorical exemptions to
5 sites on the Cortese List, stating that the confusion that resulted from the conflicting guidance
6 from the state is “regrettable;” and

7 WHEREAS, The Planning Department then contended that it could issue “common
8 sense” exemptions for such projects, citing regulatory interpretations as opposed to stronger
9 statutory requirements in Section 21084(d) which indicate that exemptions to CEQA are not
10 allowed for Cortese List sites, and in fact issued a CEQA common sense exemption for the
11 proposed project at 1776 Green Street; and

12 WHEREAS, The common sense exemption is very narrow and is only available for
13 projects “where it can be seen with certainty that there is no possibility that the activity in
14 question may have a significant effect on the environment,” and this is highly difficult to
15 demonstrate with projects proposed on a contaminated site on the Cortese List; and

16 WHEREAS, CEQA review for projects proposed to be constructed on Cortese List sites
17 often takes the form of a mitigated negative declaration, which includes a reasonable 20-day
18 public review period, which will not result in undue delay or burden; and

19 WHEREAS, Since the City and County of San Francisco already requires preparation
20 of a clean-up plan for contaminated sites pursuant to the Maher Ordinance, with associated
21 costs for mitigation in a process familiar to developers of these sites, CEQA review will
22 essentially add an additional requirement for this remediation plan to be presented to the
23 public for a brief 20-day review period prior to approval; and

24 WHEREAS, Senator David Cortese is advancing Senate Bill 37, the Contaminated Site
25 Cleanup and Safety Act, to address this practice of granting common sense exemptions, as

1 have been uniquely discovered and publicly reported in San Francisco Planning Department's
2 handling of 1776 Green St. and other Cortese List sites that have been redeveloped or may
3 be considered for redevelopment; and

4 WHEREAS, SB 37 makes explicit that local jurisdictions are prohibited from issuing a
5 common sense exemption to these sites on the Cortese List, amended in the bill as "a list
6 compiled pursuant to the Contaminated Site Cleanup and Safety Act;" now, therefore, be it

7 RESOLVED, That the San Francisco Board of Supervisors affirms its support for
8 Senate Bill 37 as it moves through the 2020-21 legislative session in the state of California;
9 and, be it

10 FURTHER RESOLVED, That the Clerk of the Board transmits copies of this Resolution
11 to the California State Assembly and California State Senate majority and minority leaders,
12 the San Francisco delegation to the state legislature, and members of key committees where
13 SB 37 is being deliberated, including the Senate's Appropriations Committee, and the
14 Assembly's Environmental Safety and Toxic Materials Committee.

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AMENDED IN SENATE APRIL 13, 2021

AMENDED IN SENATE MARCH 1, 2021

SENATE BILL

No. 37

Introduced by Senator Cortese

December 7, 2020

An act to amend Sections 65913.4, 65913.15, 65940, 65941.1, and 65941.5 of, and to repeal Section 65962.5 of, the Government Code, to amend Sections 17021.8, 25220, and 25395.117 of, and to add Chapter 6 (commencing with Section 25000) to Division 20 of, the Health and Safety Code, and to amend Sections 21084, 21092.6, 21155.1, 21159.21, and 21159.25 of the Public Resources Code, relating to ~~hazardous waste~~. *contaminated sites*.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Cortese. ~~Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act.~~

(1) Existing law requires the Department of Toxic Substances Control to compile a list of specified information, including, but not limited to, hazardous waste facilities where the department took, or contracted for the taking of, corrective action to remedy or prevent, for example, an imminent substantial danger to public health. Existing law requires the State Department of Health Care Services to compile a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. Existing law ~~also~~ requires the State Water Resources Control Board to compile a list of specified information, including, but not limited to, all cease and desist orders and cleanup and abatement orders issued under the Water Code that concern the discharge of wastes that are hazardous materials. *Existing law requires designated local*

enforcement agencies to compile and submit to the Department of Resources Recycling and Recovery a list of all solid waste disposal facilities from which there is a known migration of hazardous waste, and requires the department to compile these lists into a statewide list. Existing law requires these agencies to update the information as appropriate, but at least annually, and to submit the information to the Secretary—of for Environmental Protection. Under existing law, the Secretary for Environmental Protection is required to consolidate the information provided by these state agencies and distribute the information in a timely fashion to each city and county in which sites on the lists are located and to any other person upon request.

This bill would enact the ~~Hazardous Waste Contaminated Site Cleanup and Safety Act~~ and would recodify the above-described provisions with certain revisions. ~~The bill would require the Department of Toxic Substances Control to also list hazardous waste facilities where the department issued an order for corrective action after determining that there is or has been a release of hazardous waste or constituents into the environment from a facility. The bill would require the State Water Resources Control Board, instead of the State Department of Health Care Services, to compile and update a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. The bill would repeal the requirement for the state agencies to provide their respective lists to the Secretary for Environmental Protection and instead require these agencies to post the lists on their respective internet websites. The bill would repeal the requirement for the Secretary for Environmental Protection to consolidate the information submitted by the state agencies and instead require the Secretary for Environmental Protection secretary to additionally post the consolidated information information, or links to the information, on the California Environmental Protection Agency’s internet website. The bill would repeal the requirement for the Secretary for Environmental Protection to distribute the information to each city and county in which sites on the lists are located and to any other person upon request.~~

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

prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the Office of Planning and Research to prepare and adopt guidelines to implement CEQA, which guidelines shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA. Existing law provides that a project located on a site that is included on the consolidated list created and distributed by the Secretary for Environmental Protection shall not be exempted from CEQA under this provision.

This bill would expressly provide that a project that is included on ~~the consolidated a list created, distributed, and posted online by the Secretary for Environmental Protection~~ *compiled pursuant to the Contaminated Site Cleanup and Safety Act* shall also not be exempt from CEQA as a project where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, commonly known as the “common-sense exemption.”

This bill would make other nonsubstantive, conforming, and technical changes.

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

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

- 1 SECTION 1. Section 65913.4 of the Government Code is
- 2 amended to read:
- 3 65913.4. (a) A development proponent may submit an
- 4 application for a development that is subject to the streamlined,
- 5 ministerial approval process provided by subdivision (c) and is
- 6 not subject to a conditional use permit if the development complies
- 7 with subdivision (b) and satisfies all of the following objective
- 8 planning standards:
- 9 (1) The development is a multifamily housing development that
- 10 contains two or more residential units.
- 11 (2) The development and the site on which it is located satisfy
- 12 all of the following:

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

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

11 (C) It is zoned for residential use or residential mixed-use
12 development, or has a general plan designation that allows
13 residential use or a mix of residential and nonresidential uses, and
14 at least two-thirds of the square footage of the development is
15 designated for residential use. Additional density, floor area, and
16 units, and any other concession, incentive, or waiver of
17 development standards granted pursuant to the Density Bonus Law
18 in Section 65915 shall be included in the square footage
19 calculation. The square footage of the development shall not
20 include underground space, such as basements or underground
21 parking garages.

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

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

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

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

34 (4) The development satisfies subparagraphs (A) and (B) below:

35 (A) Is located in a locality that the department has determined
36 is subject to this subparagraph on the basis that the number of units
37 that have been issued building permits, as shown on the most recent
38 production report received by the department, is less than the
39 locality's share of the regional housing needs, by income category,
40 for that reporting period. A locality shall remain eligible under

1 this subparagraph until the department’s determination for the next
2 reporting period.

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

6 (i) The locality did not submit its latest production report to the
7 department by the time period required by Section 65400, or that
8 production report reflects that there were fewer units of above
9 moderate-income housing issued building permits than were
10 required for the regional housing needs assessment cycle for that
11 reporting period. In addition, if the project contains more than 10
12 units of housing, the project does either of the following:

13 (I) The project dedicates a minimum of 10 percent of the total
14 number of units to housing affordable to households making at or
15 below 80 percent of the area median income. However, if the
16 locality has adopted a local ordinance that requires that greater
17 than 10 percent of the units be dedicated to housing affordable to
18 households making below 80 percent of the area median income,
19 that local ordinance applies.

20 (II) (ia) If the project is located within the San Francisco Bay
21 area, the project, in lieu of complying with subclause (I), dedicates
22 20 percent of the total number of units to housing affordable to
23 households making below 120 percent of the area median income
24 with the average income of the units at or below 100 percent of
25 the area median income. However, a local ordinance adopted by
26 the locality applies if it requires greater than 20 percent of the units
27 be dedicated to housing affordable to households making at or
28 below 120 percent of the area median income, or requires that any
29 of the units be dedicated at a level deeper than 120 percent. In
30 order to comply with this subclause, the rent or sale price charged
31 for units that are dedicated to housing affordable to households
32 between 80 percent and 120 percent of the area median income
33 shall not exceed 30 percent of the gross income of the household.

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

39 (ii) The locality’s latest production report reflects that there
40 were fewer units of housing issued building permits affordable to

1 either very low income or low-income households by income
2 category than were required for the regional housing needs
3 assessment cycle for that reporting period, and the project seeking
4 approval dedicates 50 percent of the total number of units to
5 housing affordable to households making at or below 80 percent
6 of the area median income. However, if the locality has adopted
7 a local ordinance that requires that greater than 50 percent of the
8 units be dedicated to housing affordable to households making at
9 or below 80 percent of the area median income, that local ordinance
10 applies.

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

19 (C) (i) A development proponent that uses a unit of affordable
20 housing to satisfy the requirements of subparagraph (B) may also
21 satisfy any other local or state requirement for affordable housing,
22 including local ordinances or the Density Bonus Law in Section
23 65915, provided that the development proponent complies with
24 the applicable requirements in the state or local law.

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

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

34 (5) The development, excluding any additional density or any
35 other concessions, incentives, or waivers of development standards
36 granted pursuant to the Density Bonus Law in Section 65915, is
37 consistent with objective zoning standards, objective subdivision
38 standards, and objective design review standards in effect at the
39 time that the development is submitted to the local government
40 under this section, or at the time a notice of intent is submitted

1 pursuant to subdivision (b), whichever occurs earlier. For purposes
2 of this paragraph, “objective zoning standards,” “objective
3 subdivision standards,” and “objective design review standards”
4 mean standards that involve no personal or subjective judgment
5 by a public official and are uniformly verifiable by reference to
6 an external and uniform benchmark or criterion available and
7 knowable by both the development applicant or proponent and the
8 public official before submittal. These standards may be embodied
9 in alternative objective land use specifications adopted by a city
10 or county, and may include, but are not limited to, housing overlay
11 zones, specific plans, inclusionary zoning ordinances, and density
12 bonus ordinances, subject to the following:

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

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

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

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

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

34 (A) ~~A~~The coastal zone, as defined in *Division 20 (commencing*
35 *with Section 30103 30000)* of the Public Resources Code.

36 (B) Either prime farmland or farmland of statewide importance,
37 as defined pursuant to United States Department of Agriculture
38 land inventory and monitoring criteria, as modified for California,
39 and designated on the maps prepared by the Farmland Mapping
40 and Monitoring Program of the Department of Conservation, or

1 land zoned or designated for agricultural protection or preservation
2 by a local ballot measure that was approved by the voters of that
3 jurisdiction.

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

6 (D) Within a very high fire hazard severity zone, as determined
7 by the Director of Forestry and Fire Protection pursuant to Section
8 51178, or within a high or very high fire hazard severity zone as
9 indicated on maps adopted by the Department of Forestry and Fire
10 Protection pursuant to Section 4202 of the Public Resources Code.
11 This subparagraph does not apply to sites excluded from the
12 specified hazard zones by a local agency, pursuant to subdivision
13 (b) of Section 51179, or sites that have adopted fire hazard
14 mitigation measures pursuant to existing building standards or
15 state fire mitigation measures applicable to the development.

16 (E) A hazardous waste site that is listed pursuant to Section
17 25001 of the Health and Safety Code or a hazardous substances
18 release site designated by the Department of Toxic Substances
19 Control pursuant to Section 25356 of the Health and Safety Code,
20 unless the State Department of Public Health, State Water
21 Resources Control Board, or Department of Toxic Substances
22 Control has cleared the site for residential use or residential mixed
23 uses.

24 (F) Within a delineated earthquake fault zone as determined by
25 the State Geologist in any official maps published by the State
26 Geologist, unless the development complies with applicable seismic
27 protection building code standards adopted by the California
28 Building Standards Commission under the California Building
29 Standards Law (Part 2.5 (commencing with Section 18901) of
30 Division 13 of the Health and Safety Code), and by any local
31 building department under Chapter 12.2 (commencing with Section
32 8875) of Division 1 of Title 2.

33 (G) Within a special flood hazard area subject to inundation by
34 the 1 percent annual chance flood (100-year flood) as determined
35 by the Federal Emergency Management Agency in any official
36 maps published by the Federal Emergency Management Agency.
37 If a development proponent is able to satisfy all applicable federal
38 qualifying criteria in order to provide that the site satisfies this
39 subparagraph and is otherwise eligible for streamlined approval
40 under this section, a local government shall not deny the application

1 on the basis that the development proponent did not comply with
2 any additional permit requirement, standard, or action adopted by
3 that local government that is applicable to that site. A development
4 may be located on a site described in this subparagraph if either
5 of the following are met:

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

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

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

28 (I) Lands identified for conservation in an adopted natural
29 community conservation plan pursuant to the Natural Community
30 Conservation Planning Act (Chapter 10 (commencing with Section
31 2800) of Division 3 of the Fish and Game Code), habitat
32 conservation plan pursuant to the federal Endangered Species Act
33 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
34 resource protection plan.

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

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

3 (K) Lands under conservation easement.

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

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

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

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

13 (iii) Housing that has been occupied by tenants within the past
14 10 years.

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

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

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

25 (8) The development proponent has done both of the following,
26 as applicable:

27 (A) Certified to the locality that either of the following is true,
28 as applicable:

29 (i) The entirety of the development is a public work for purposes
30 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
31 2 of the Labor Code.

32 (ii) If the development is not in its entirety a public work, that
33 all construction workers employed in the execution of the
34 development will be paid at least the general prevailing rate of per
35 diem wages for the type of work and geographic area, as
36 determined by the Director of Industrial Relations pursuant to
37 Sections 1773 and 1773.9 of the Labor Code, except that
38 apprentices registered in programs approved by the Chief of the
39 Division of Apprenticeship Standards may be paid at least the
40 applicable apprentice prevailing rate. If the development is subject

1 to this subparagraph, then for those portions of the development
2 that are not a public work all of the following shall apply:

3 (I) The development proponent shall ensure that the prevailing
4 wage requirement is included in all contracts for the performance
5 of the work.

6 (II) All contractors and subcontractors shall pay to all
7 construction workers employed in the execution of the work at
8 least the general prevailing rate of per diem wages, except that
9 apprentices registered in programs approved by the Chief of the
10 Division of Apprenticeship Standards may be paid at least the
11 applicable apprentice prevailing rate.

12 (III) Except as provided in subclause (V), all contractors and
13 subcontractors shall maintain and verify payroll records pursuant
14 to Section 1776 of the Labor Code and make those records
15 available for inspection and copying as provided therein.

16 (IV) Except as provided in subclause (V), the obligation of the
17 contractors and subcontractors to pay prevailing wages may be
18 enforced by the Labor Commissioner through the issuance of a
19 civil wage and penalty assessment pursuant to Section 1741 of the
20 Labor Code, which may be reviewed pursuant to Section 1742 of
21 the Labor Code, within 18 months after the completion of the
22 development, by an underpaid worker through an administrative
23 complaint or civil action, or by a joint labor-management
24 committee through a civil action pursuant to Section 1771.2 of the
25 Labor Code. If a civil wage and penalty assessment is issued, the
26 contractor, subcontractor, and surety on a bond or bonds issued to
27 secure the payment of wages covered by the assessment shall be
28 liable for liquidated damages pursuant to Section 1742.1 of the
29 Labor Code.

30 (V) Subclauses (III) and (IV) shall not apply if all contractors
31 and subcontractors performing work on the development are subject
32 to a project labor agreement that requires the payment of prevailing
33 wages to all construction workers employed in the execution of
34 the development and provides for enforcement of that obligation
35 through an arbitration procedure. For purposes of this clause,
36 “project labor agreement” has the same meaning as set forth in
37 paragraph (1) of subdivision (b) of Section 2500 of the Public
38 Contract Code.

39 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the
40 Labor Code, the requirement that employer payments not reduce

1 the obligation to pay the hourly straight time or overtime wages
2 found to be prevailing shall not apply if otherwise provided in a
3 bona fide collective bargaining agreement covering the worker.
4 The requirement to pay at least the general prevailing rate of per
5 diem wages does not preclude use of an alternative workweek
6 schedule adopted pursuant to Section 511 or 514 of the Labor
7 Code.

8 (B) (i) For developments for which any of the following
9 conditions apply, certified that a skilled and trained workforce
10 shall be used to complete the development if the application is
11 approved:

12 (I) On and after January 1, 2018, until December 31, 2021, the
13 development consists of 75 or more units with a residential
14 component that is not 100 percent subsidized affordable housing
15 and will be located within a jurisdiction located in a coastal or bay
16 county with a population of 225,000 or more.

17 (II) On and after January 1, 2022, until December 31, 2025, the
18 development consists of 50 or more units with a residential
19 component that is not 100 percent subsidized affordable housing
20 and will be located within a jurisdiction located in a coastal or bay
21 county with a population of 225,000 or more.

22 (III) On and after January 1, 2018, until December 31, 2019,
23 the development consists of 75 or more units with a residential
24 component that is not 100 percent subsidized affordable housing
25 and will be located within a jurisdiction with a population of fewer
26 than 550,000 and that is not located in a coastal or bay county.

27 (IV) On and after January 1, 2020, until December 31, 2021,
28 the development consists of more than 50 units with a residential
29 component that is not 100 percent subsidized affordable housing
30 and will be located within a jurisdiction with a population of fewer
31 than 550,000 and that is not located in a coastal or bay county.

32 (V) On and after January 1, 2022, until December 31, 2025, the
33 development consists of more than 25 units with a residential
34 component that is not 100 percent subsidized affordable housing
35 and will be located within a jurisdiction with a population of fewer
36 than 550,000 and that is not located in a coastal or bay county.

37 (ii) For purposes of this section, “skilled and trained workforce”
38 has the same meaning as provided in Chapter 2.9 (commencing
39 with Section 2600) of Part 1 of Division 2 of the Public Contract
40 Code.

1 (iii) If the development proponent has certified that a skilled
2 and trained workforce will be used to complete the development
3 and the application is approved, all of the following shall apply:

4 (I) The applicant shall require in all contracts for the
5 performance of work that every contractor and subcontractor at
6 every tier will individually use a skilled and trained workforce to
7 complete the development.

8 (II) Every contractor and subcontractor shall use a skilled and
9 trained workforce to complete the development.

10 (III) Except as provided in subclause (IV), the applicant shall
11 provide to the locality, on a monthly basis while the development
12 or contract is being performed, a report demonstrating compliance
13 with Chapter 2.9 (commencing with Section 2600) of Part 1 of
14 Division 2 of the Public Contract Code. A monthly report provided
15 to the locality under this subclause shall be a public record under
16 the California Public Records Act (Chapter 3.5 (commencing with
17 Section 6250) of Division 7 of Title 1) and shall be open to public
18 inspection. An applicant that fails to provide a monthly report
19 demonstrating compliance with Chapter 2.9 (commencing with
20 Section 2600) of Part 1 of Division 2 of the Public Contract Code
21 shall be subject to a civil penalty of ten thousand dollars (\$10,000)
22 per month for each month for which the report has not been
23 provided. Any contractor or subcontractor that fails to use a skilled
24 and trained workforce shall be subject to a civil penalty of two
25 hundred dollars (\$200) per day for each worker employed in
26 contravention of the skilled and trained workforce requirement.
27 Penalties may be assessed by the Labor Commissioner within 18
28 months of completion of the development using the same
29 procedures for issuance of civil wage and penalty assessments
30 pursuant to Section 1741 of the Labor Code, and may be reviewed
31 pursuant to the same procedures in Section 1742 of the Labor
32 Code. Penalties shall be paid to the State Public Works
33 Enforcement Fund.

34 (IV) Subclause (III) shall not apply if all contractors and
35 subcontractors performing work on the development are subject
36 to a project labor agreement that requires compliance with the
37 skilled and trained workforce requirement and provides for
38 enforcement of that obligation through an arbitration procedure.
39 For purposes of this subparagraph, “project labor agreement” has

1 the same meaning as set forth in paragraph (1) of subdivision (b)
2 of Section 2500 of the Public Contract Code.

3 (C) Notwithstanding subparagraphs (A) and (B), a development
4 that is subject to approval under this section is exempt from any
5 requirement to pay prevailing wages or use a skilled and trained
6 workforce if it meets both of the following:

7 (i) The project includes 10 or fewer units.

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

11 (9) The development did not or does not involve a subdivision
12 of a parcel that is, or, notwithstanding this section, would otherwise
13 be, subject to the Subdivision Map Act (Division 2 (commencing
14 with Section 66410)) or any other applicable law authorizing the
15 subdivision of land, unless the development is consistent with all
16 objective subdivision standards in the local subdivision ordinance,
17 and either of the following apply:

18 (A) The development has received or will receive financing or
19 funding by means of a low-income housing tax credit and is subject
20 to the requirement that prevailing wages be paid pursuant to
21 subparagraph (A) of paragraph (8).

22 (B) The development is subject to the requirement that
23 prevailing wages be paid, and a skilled and trained workforce used,
24 pursuant to paragraph (8).

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

35 (b) (1) (A) (i) Before submitting an application for a
36 development subject to the streamlined, ministerial approval
37 process described in subdivision (c), the development proponent
38 shall submit to the local government a notice of its intent to submit
39 an application. The notice of intent shall be in the form of a
40 preliminary application that includes all of the information

1 described in Section 65941.1, as that section read on January 1,
2 2020.

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

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

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

23 (ia) A description of the proposed development.

24 (ib) The location of the proposed development.

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

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

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

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

1 (C) The parties to a scoping consultation conducted under this
2 subdivision shall be the local government and any California Native
3 American tribe traditionally and culturally affiliated with the
4 geographic area of the proposed development. More than one
5 California Native American tribe traditionally and culturally
6 affiliated with the geographic area of the proposed development
7 may participate in the scoping consultation. However, the local
8 government, upon the request of any California Native American
9 tribe traditionally and culturally affiliated with the geographic area
10 of the proposed development, shall engage in a separate scoping
11 consultation with that California Native American tribe. The
12 development proponent and its consultants may participate in a
13 scoping consultation process conducted under this subdivision if
14 all of the following conditions are met:

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

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

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

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

29 (i) Subdivision (r) of Section 6254.

30 (ii) Section 6254.10.

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

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

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

38 (E) The California Environmental Quality Act (Division 13
39 (commencing with Section 21000) of the Public Resources Code)

1 shall not apply to a scoping consultation conducted under this
2 subdivision.

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

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

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

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

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

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

38 (E) If the development or environmental setting substantially
39 changes after the completion of the scoping consultation, the local
40 government shall notify the California Native American tribe of

1 the changes and engage in a subsequent scoping consultation if
2 requested by the California Native American tribe.

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

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

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

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

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

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

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

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

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

38 (5) (A) If, after a scoping consultation conducted under this
39 subdivision, a project is not eligible for the streamlined, ministerial
40 process described in subdivision (c) for any or all of the following

1 reasons, the local government shall provide written documentation
2 of that fact, and an explanation of the reason for which the project
3 is not eligible, to the development proponent and to any California
4 Native American tribe that is a party to that scoping consultation:

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

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

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

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

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

29 (7) For purposes of this subdivision:

30 (A) “Consultation” means the meaningful and timely process
31 of seeking, discussing, and considering carefully the views of
32 others, in a manner that is cognizant of all parties’ cultural values
33 and, where feasible, seeking agreement. Consultation between
34 local governments and *California* Native American tribes shall be
35 conducted in a way that is mutually respectful of each party’s
36 sovereignty. Consultation shall also recognize the tribes’ potential
37 needs for confidentiality with respect to places that have traditional
38 tribal cultural importance. A lead agency shall consult the tribal
39 consultation best practices described in the “State of California

1 Tribal Consultation Guidelines: Supplement to the General Plan
2 Guidelines” prepared by the Office of Planning and Research.

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

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

15 (c) (1) If a local government determines that a development
16 submitted under this section is in conflict with any of the objective
17 planning standards specified in subdivision (a), it shall provide the
18 development proponent written documentation of which standard
19 or standards the development conflicts with, and an explanation
20 for the reason or reasons the development conflicts with that
21 standard or standards, as follows:

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

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

28 (2) If the local government fails to provide the required
29 documentation pursuant to paragraph (1), the development shall
30 be deemed to satisfy the objective planning standards specified in
31 subdivision (a).

32 (3) For purposes of this section, a development is consistent
33 with the objective planning standards specified in subdivision (a)
34 if there is substantial evidence that would allow a reasonable person
35 to conclude that the development is consistent with the objective
36 planning standards.

37 (d) (1) Any design review or public oversight of the
38 development may be conducted by the local government’s planning
39 commission or any equivalent board or commission responsible
40 for review and approval of development projects, or the city council

1 or board of supervisors, as appropriate. That design review or
2 public oversight shall be objective and be strictly focused on
3 assessing compliance with criteria required for streamlined projects,
4 as well as any reasonable objective design standards published
5 and adopted by ordinance or resolution by a local jurisdiction
6 before submission of a development application, and shall be
7 broadly applicable to development within the jurisdiction. That
8 design review or public oversight shall be completed as follows
9 and shall not in any way inhibit, chill, or preclude the ministerial
10 approval provided by this section or its effect, as applicable:

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

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

17 (2) If the development is consistent with the requirements of
18 subparagraph (A) or (B) of paragraph (9) of subdivision (a) and
19 is consistent with all objective subdivision standards in the local
20 subdivision ordinance, an application for a subdivision pursuant
21 to the Subdivision Map Act (Division 2 (commencing with Section
22 66410)) shall be exempt from the requirements of the California
23 Environmental Quality Act (Division 13 (commencing with Section
24 21000) of the Public Resources Code) and shall be subject to the
25 public oversight timelines set forth in paragraph (1).

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

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

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

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

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

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

5 (f) (1) If a local government approves a development under
6 this section, then, notwithstanding any other law, that approval
7 shall not expire if the project includes public investment in housing
8 affordability, beyond tax credits, where 50 percent of the units are
9 affordable to households making at or below 80 percent of the area
10 median income.

11 (2) (A) If a local government approves a development under
12 this section and the project does not include 50 percent of the units
13 affordable to households making at or below 80 percent of the area
14 median income, that approval shall remain valid for three years
15 from the date of the final action establishing that approval, or if
16 litigation is filed challenging that approval, from the date of the
17 final judgment upholding that approval. Approval shall remain
18 valid for a project provided that vertical construction of the
19 development has begun and is in progress. For purposes of this
20 subdivision, “in progress” means one of the following:

21 (i) The construction has begun and has not ceased for more than
22 180 days.

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

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

33 (3) If a local government approves a development under this
34 section, that approval shall remain valid for three years from the
35 date of the final action establishing that approval and shall remain
36 valid thereafter for a project so long as vertical construction of the
37 development has begun and is in progress. Additionally, the
38 development proponent may request, and the local government
39 shall have discretion to grant, an additional one-year extension to
40 the original three-year period. The local government’s action and

1 discretion in determining whether to grant the foregoing extension
2 shall be limited to considerations and processes set forth in this
3 section.

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

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

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

21 (D) A guideline that was adopted or amended by the department
22 pursuant to subdivision (j) after a development was approved
23 through the streamlined ministerial approval process described in
24 subdivision (b) shall not be used as a basis to deny proposed
25 modifications.

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

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

36 (A) The development is revised such that the total number of
37 residential units or total square footage of construction changes
38 by 15 percent or more.

39 (B) The development is revised such that the total number of
40 residential units or total square footage of construction changes

1 by 5 percent or more and it is necessary to subject the development
2 to an objective standard beyond those in effect when the
3 development application was submitted in order to mitigate or
4 avoid a specific, adverse impact, as that term is defined in
5 subparagraph (A) of paragraph (1) of subdivision (j) of Section
6 65589.5, upon the public health or safety and there is no feasible
7 alternative method to satisfactorily mitigate or avoid the adverse
8 impact.

9 (C) Objective building standards contained in the California
10 Building Standards Code (Title 24 of the California Code of
11 Regulations), including, but not limited to, building plumbing,
12 electrical, fire, and grading codes, may be applied to all
13 modifications.

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

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

26 (2) A local government shall issue a subsequent permit required
27 for a development approved under this section if the application
28 substantially complies with the development as it was approved
29 pursuant to subdivision (c). Upon receipt of an application for a
30 subsequent permit, the local government shall process the permit
31 without unreasonable delay and shall not impose any procedure
32 or requirement that is not imposed on projects that are not approved
33 under this section. Issuance of subsequent permits shall implement
34 the approved development, and review of the permit application
35 shall not inhibit, chill, or preclude the development. For purposes
36 of this paragraph, a "subsequent permit" means a permit required
37 subsequent to receiving approval pursuant to subdivision (c), and
38 includes, but is not limited to, demolition, grading, encroachment,
39 and building permits and final maps, if necessary.

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

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

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

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

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

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

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

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

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

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

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

16 (2) Approve improvements located on land owned by the local
17 government or the San Francisco Bay Area Rapid Transit District
18 that are necessary to implement a development that receives
19 streamlined approval under this section that is to be used for
20 housing for persons and families of low or moderate income, as
21 defined in Section 50093 of the Health and Safety Code.

22 (k) For purposes of this section, the following terms have the
23 following meanings:

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

26 (2) “Affordable rent” has the same meaning as set forth in
27 Section 50053 of the Health and Safety Code.

28 (3) “Department” means the Department of Housing and
29 Community Development.

30 (4) “Development proponent” means the developer who submits
31 an application for streamlined approval under this section.

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

35 (6) “Locality” or “local government” means a city, including a
36 charter city, a county, including a charter county, or a city and
37 county, including a charter city and county.

38 (7) “Moderate income housing units” means housing units with
39 an affordable housing cost or affordable rent for persons and

1 families of moderate income, as that term is defined in Section
2 50093 of the Health and Safety Code.

3 (8) “Production report” means the information reported pursuant
4 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
5 65400.

6 (9) “State agency” includes every state office, officer,
7 department, division, bureau, board, and commission, but does not
8 include the California State University or the University of
9 California.

10 (10) “Subsidized” means units that are price or rent restricted
11 such that the units are affordable to households meeting the
12 definitions of very low income households and lower-income,
13 *income* households as defined in Sections 50079.5 and 50105 of
14 the Health and Safety Code.

15 (11) “Reporting period” means either of the following:

16 (A) The first half of the regional housing needs assessment
17 cycle.

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

19 (12) “Urban uses” means any current or former residential,
20 commercial, public institutional, transit or transportation passenger
21 facility, or retail use, or any combination of those uses.

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

29 (m) The determination of whether an application for a
30 development is subject to the streamlined ministerial approval
31 process provided by subdivision (c) is not a “project” as defined
32 in Section 21065 of the Public Resources Code.

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

37 (o) This section shall remain in effect only until January 1, 2026,
38 and as of that date is repealed.

39 SEC. 2. Section 65913.15 of the Government Code is amended
40 to read:

1 65913.15. (a) Notwithstanding Section 65913.4, a development
2 proponent may submit an application for a development that is
3 subject to the streamlined, ministerial approval process provided
4 by subdivision (b) and is not subject to a conditional use permit if
5 the development satisfies all of the following objective planning
6 standards:

7 (1) The development is located within the territorial boundaries
8 or a specialized residential planning area identified in the general
9 plan of, and adjacent to existing urban development within, any
10 of the following:

- 11 (A) The City of Biggs.
- 12 (B) The City of Corning.
- 13 (C) The City of Gridley.
- 14 (D) The City of Live Oak.
- 15 (E) The City of Orland.
- 16 (F) The City of Oroville.
- 17 (G) The City of Willows.
- 18 (H) The City of Yuba City.

19 (2) The development is either a residential development or a
20 mixed-use development that includes residential units with at least
21 two-thirds of the square footage of the development designated
22 for residential use, not including any land that may be devoted to
23 open-space or mitigation requirements.

24 (3) The development proponent has held at least one public
25 meeting on the proposed development before submitting an
26 application under this subdivision.

27 (4) The development has a minimum density of at least four
28 units per acre.

29 (5) The development is located on a site that meets both of the
30 following requirements:

- 31 (A) The site is no more than 50 acres.
- 32 (B) The site is zoned for residential use or residential mixed-use
33 development.

34 (6) The development, excluding any additional density or any
35 other concessions, incentives, or waivers of development standards
36 granted pursuant to the Density Bonus Law in Section 65915, is
37 consistent with objective zoning standards, objective subdivision
38 standards, and objective design review standards in effect at the
39 time that the development is submitted to the local government
40 under this section.

1 (7) The development will achieve sustainability standards
2 sufficient to receive a gold certification under the United States
3 Green Building Council's Leadership in Energy and Environmental
4 Design for Homes rating system or, in the case of a mixed-use
5 development, the Neighborhood Development or the New
6 Construction rating system, or the comparable rating under the
7 GreenPoint rating system or voluntary tier under the California
8 Green Building Code (Part 11 (commencing with Section 101) of
9 Title 24 of the California Code of Regulations).

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

12 (A) Either prime farmland or farmland of statewide importance,
13 as defined pursuant to United States Department of Agriculture
14 land inventory and monitoring criteria, as modified for California,
15 and designated on the maps prepared by the Farmland Mapping
16 and Monitoring Program of the Department of Conservation that
17 is protected pursuant to the Williamson Act (Chapter 7
18 (commencing with Section 51200) of Part 1 of Division 1 of Title
19 5), or land zoned or designated for agricultural protection or
20 preservation by a local ballot measure that was approved by the
21 voters of that jurisdiction.

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

24 (C) Within a very high fire hazard severity zone, as determined
25 by the Director of Forestry and Fire Protection pursuant to Section
26 51178, or within a high or very high fire hazard severity zone as
27 indicated on maps adopted by the Department of Forestry and Fire
28 Protection pursuant to Section 4202 of the Public Resources Code.

29 (D) A hazardous waste site that is listed pursuant to Section
30 25001 of the Health and Safety Code or a hazardous substances
31 release site designated by the Department of Toxic Substances
32 Control pursuant to Section 25356 of the Health and Safety Code,
33 unless the Department of Toxic Substances Control has cleared
34 the site for residential use or residential mixed uses.

35 (E) Within a delineated earthquake fault zone as determined by
36 the State Geologist in any official maps published by the State
37 Geologist, unless the development complies with applicable seismic
38 protection building code standards adopted by the California
39 Building Standards Commission under the California Building
40 Standards Law (Part 2.5 (commencing with Section 18901) of

1 Division 13 of the Health and Safety Code), and by any local
2 building department under Chapter 12.2 (commencing with Section
3 8875) of Division 1 of Title 2.

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

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

20 (ii) The site meets Federal Emergency Management Agency
21 requirements necessary to meet minimum flood plain management
22 criteria of the National Flood Insurance Program pursuant to Part
23 59 (commencing with Section 59.1) and Part 60 (commencing
24 with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
25 Code of Federal Regulations.

26 (G) Within a regulatory floodway as determined by the Federal
27 Emergency Management Agency in any official maps published
28 by the Federal Emergency Management Agency.

29 (H) Lands identified for conservation in an adopted natural
30 community conservation plan adopted on or before January 1,
31 2019, pursuant to the Natural Community Conservation Planning
32 Act (Chapter 10 (commencing with Section 2800) of Division 3
33 of the Fish and Game Code), habitat conservation plan pursuant
34 to the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
35 1531 et seq.), or other adopted natural resource protection plan.

36 (I) Habitat for protected species identified as candidate,
37 sensitive, or species of special status by state or federal agencies,
38 fully protected species, or species protected by any of the
39 following:

1 (i) The federal Endangered Species Act of 1973 (16 U.S.C. Sec.
2 1531 et seq.).

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

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

8 (J) Lands under conservation easement.

9 (9) The development does not require the demolition of a historic
10 structure that was placed on a national, state, or local historic
11 register.

12 (10) The development shall not be upon an existing parcel of
13 land or site that is governed under any of the following:

14 (A) The Mobilehome Residency Law (Chapter 2.5 (commencing
15 with Section 798) of Title 2 of Part 2 of Division 2 of the Civil
16 Code).

17 (B) The Recreational Vehicle Park Occupancy Law (Chapter
18 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of
19 Division 2 of the Civil Code).

20 (C) The Mobilehome Parks Act (Part 2.1 (commencing with
21 Section 18200) of Division 13 of the Health and Safety Code).

22 (D) The Special Occupancy Parks Act (Part 2.3 (commencing
23 with Section 18860) of Division 13 of the Health and Safety Code).

24 (11) (A) If the development would require the demolition of
25 any affordable housing units, the development shall replace those
26 units by providing at least the same number of units of equivalent
27 size to be made available at affordable housing cost to, and
28 occupied by, persons and families in the same income category as
29 those households in occupancy. If the income category of the
30 household in occupancy is not known, it shall be rebuttably
31 presumed that lower income households occupied the units in the
32 same proportion of lower income households to all households
33 within the jurisdiction, as determined by the most recently available
34 data from the United States Department of Housing and Urban
35 Development's Comprehensive Housing Affordability Strategy
36 database. All replacement calculations resulting in fractional units
37 shall be rounded to the next whole number.

38 (B) For purposes of this paragraph, "equivalent size" means
39 that the replacement units contain at least the same total number
40 of bedrooms as the units being replaced.

1 (b) (1) If a local government determines that a development
2 submitted under this section is in conflict with any of the objective
3 planning standards specified in subdivision (a), it shall provide the
4 development proponent written documentation of which standard
5 or standards the development conflicts with, and an explanation
6 for the reason or reasons the development conflicts with that
7 standard or standards, as follows:

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

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

14 (2) If the local government fails to provide the required
15 documentation pursuant to paragraph (1), the development shall
16 be deemed to satisfy the objective planning standards specified in
17 subdivision (a).

18 (c) Any design review or public oversight of the development
19 may be conducted by the local government's planning commission
20 or any equivalent commission responsible for review and approval
21 of development projects or the city council, as appropriate. That
22 design review or public oversight shall be objective and be strictly
23 focused on assessing compliance with criteria required for
24 streamlined projects, as well as any reasonable objective design
25 standards published and adopted by ordinance or resolution by a
26 local government before submission of a development application,
27 and shall be broadly applicable to development within the
28 jurisdiction. That design review or public oversight shall be
29 completed as follows and shall not in any way inhibit, chill, or
30 preclude the ministerial approval provided by this section or its
31 effect, as applicable:

32 (1) Within 90 days of submittal of the development to the local
33 government under this section if the development contains 150 or
34 fewer housing units.

35 (2) Within 180 days of submittal of the development to the local
36 government under this section if the development contains more
37 than 150 housing units.

38 (d) Notwithstanding any other law, a city, whether or not it has
39 adopted an ordinance governing automobile parking requirements
40 for multifamily developments, shall not impose automobile parking

1 standards for a streamlined development that was approved under
2 this section if the development is located within one-half mile from
3 a high-quality bus corridor or major transit stop.

4 (e) (1) If a local government approves a development under
5 this section, then, notwithstanding any other law, that approval
6 shall not expire if the project includes public investment in housing
7 affordability and 50 percent of the units are affordable to
8 households making below 80 percent of the area median income.
9 For purposes of this paragraph, “public investment in housing
10 affordability” does not include tax credits.

11 (2) If a local government approves a development under this
12 section and the project does not include 50 percent of the units
13 affordable to households making below 80 percent of the area
14 median income, that approval shall automatically expire after three
15 years, except that a project may receive a one-time, one-year
16 extension if the project proponent provides documentation that
17 there has been significant progress toward getting the development
18 construction ready, such as filing a building permit application.

19 (3) If a local government approves a development under this
20 section, that approval shall remain valid for three years from the
21 date of the final action establishing that approval and shall remain
22 valid thereafter for a project so long as vertical construction of the
23 development has begun and is in progress. Additionally, the
24 development proponent may request, and the local government
25 shall have discretion to grant, an additional one-year extension to
26 the original three-year period. The local government’s action and
27 discretion in determining whether to grant the foregoing extension
28 shall be limited to considerations and process set forth in this
29 section.

30 (4) If a local government approves a development under this
31 section, the local government shall file a notice of that approval
32 with the Office of Planning and Research.

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

38 (2) Notwithstanding paragraph (1), if the local government has
39 adopted a local ordinance that requires that a specified percentage
40 of the units of a housing development project be dedicated to

1 households making below 80 percent of the area median income,
2 that local ordinance applies.

3 (g) This section does not affect a development proponent's
4 ability to use any alternative streamlined by right permit processing
5 adopted by a local government, including the provisions of
6 subdivision (i) of Section 65583.2.

7 (h) For purposes of this section, the following terms have the
8 following meanings:

9 (1) "Affordable housing" means housing available at affordable
10 housing cost, and occupied by, persons and families of low or
11 moderate income as defined in Section 50093 of the Health and
12 Safety Code, lower income households as defined in Section
13 50079.5 of the Health and Safety Code, very low income
14 households as defined in Section 50105 of the Health and Safety
15 Code, and extremely low income households as defined in Section
16 50106 of the Health and Safety Code, for a period of 55 years for
17 rental housing and 45 years for owner-occupied housing.

18 (2) "Affordable housing cost" has the same meaning as
19 "affordable housing cost" described in Section 50052.5 of the
20 Health and Safety Code.

21 (3) "Area median income" means area median income as
22 periodically established by the Department of Housing and
23 Community Development pursuant to Section 50093 of the Health
24 and Safety Code.

25 (4) "Development proponent" means the developer who submits
26 an application for streamlined approval under this section.

27 (5) "High-quality bus corridor" means a corridor with fixed
28 route bus service with service intervals no longer than 15 minutes
29 during peak commute hours.

30 (6) "Local government" means a city or a county, including a
31 charter city or a charter county, that has jurisdiction over a
32 development for which a development proponent submits an
33 application under this section.

34 (7) "Major transit stop" means a site containing an existing rail
35 transit station, a ferry terminal served by either a bus or rail transit
36 service, or the intersection of two or more major bus routes with
37 a frequency of service interval of 15 minutes or less during the
38 morning and afternoon peak commute periods. "Major transit stop"
39 shall also include major transit stops included in a regional

1 transportation plan adopted pursuant to Chapter 2.5 (commencing
2 with Section 65080).

3 (8) (A) “Objective zoning standards,” “objective subdivision
4 standards,” and “objective design review standards” mean standards
5 that involve no personal or subjective judgment by a public official
6 and are uniformly verifiable by reference to an external and
7 uniform benchmark or criterion available and knowable by both
8 the development applicant or proponent and the public official
9 before submittal. These standards may be embodied in alternative
10 objective land use specifications adopted by a local government,
11 and may include, but are not limited to, housing overlay zones,
12 specific plans, inclusionary zoning ordinances, and density bonus
13 ordinances, subject to subparagraph (B).

14 (B) A development shall be deemed consistent with the objective
15 zoning standards related to housing density, as applicable, if the
16 density proposed is consistent with the allowable residential density
17 within that land use designation, notwithstanding any specified
18 unit allocation.

19 (i) This section shall remain in effect only until January 1, 2026,
20 and as of that date is repealed.

21 SEC. 3. Section 65940 of the Government Code, as amended
22 by Section 6 of Chapter 654 of the Statutes of 2019, is amended
23 to read:

24 65940. (a) (1) Each public agency shall compile one or more
25 lists that shall specify in detail the information that will be required
26 from any applicant for a development project. Each public agency
27 shall revise the list of information required from an applicant to
28 include a certification of compliance with Section 25001 of the
29 Health and Safety Code and the statement of application required
30 by Section 65943. Copies of the information, including the
31 statement of application required by Section 65943, shall be made
32 available to all applicants for development projects and to any
33 person who requests the information.

34 (2) An affected city or affected county, as defined in Section
35 66300, shall include the information necessary to determine
36 compliance with the requirements of subdivision (d) of Section
37 66300 in the list compiled pursuant to paragraph (1).

38 (b) The list of information required from any applicant shall
39 include, where applicable, identification of whether the proposed
40 project is located within 1,000 feet of a military installation,

1 beneath a low-level flight path or within special use airspace as
2 defined in Section 21098 of the Public Resources Code, and within
3 an urbanized area as defined in Section 65944.

4 (c) (1) A public agency that is not beneath a low-level flight
5 path or not within special use airspace and does not contain a
6 military installation is not required to change its list of information
7 required from applicants to comply with subdivision (b).

8 (2) A public agency that is entirely urbanized, as defined in
9 subdivision (e) of Section 65944, with the exception of a
10 jurisdiction that contains a military installation, is not required to
11 change its list of information required from applicants to comply
12 with subdivision (b).

13 (d) This section shall remain in effect only until January 1, 2025,
14 and as of that date is repealed.

15 SEC. 4. Section 65940 of the Government Code, as added by
16 Section 7 of Chapter 654 of the Statutes of 2019, is amended to
17 read:

18 65940. (a) Each public agency shall compile one or more lists
19 that shall specify in detail the information that will be required
20 from any applicant for a development project. Each public agency
21 shall revise the list of information required from an applicant to
22 include a certification of compliance with Section 25001 of the
23 Health and Safety Code and the statement of application required
24 by Section 65943. Copies of the information, including the
25 statement of application required by Section 65943, shall be made
26 available to all applicants for development projects and to any
27 person who requests the information.

28 (b) The list of information required from any applicant shall
29 include, where applicable, identification of whether the proposed
30 project is located within 1,000 feet of a military installation,
31 beneath a low-level flight path or within special use airspace as
32 defined in Section 21098 of the Public Resources Code, and within
33 an urbanized area as defined in Section 65944.

34 (c) (1) A public agency that is not beneath a low-level flight
35 path or not within special use airspace and does not contain a
36 military installation is not required to change its list of information
37 required from applicants to comply with subdivision (b).

38 (2) A public agency that is entirely urbanized, as defined in
39 subdivision (e) of Section 65944, with the exception of a
40 jurisdiction that contains a military installation, is not required to

1 change its list of information required from applicants to comply
2 with subdivision (b).

3 (d) This section shall become operative on January 1, 2025.

4 SEC. 5. Section 65941.1 of the Government Code is amended
5 to read:

6 65941.1. (a) An applicant for a housing development project,
7 as defined in paragraph (2) of subdivision (h) of Section 65589.5,
8 shall be deemed to have submitted a preliminary application upon
9 providing all of the following information about the proposed
10 project to the city, county, or city and county from which approval
11 for the project is being sought and upon payment of the permit
12 processing fee:

13 (1) The specific location, including parcel numbers, a legal
14 description, and site address, if applicable.

15 (2) The existing uses on the project site and identification of
16 major physical alterations to the property on which the project is
17 to be located.

18 (3) A site plan showing the location on the property, elevations
19 showing design, color, and material, and the massing, height, and
20 approximate square footage, of each building that is to be occupied.

21 (4) The proposed land uses by number of units and square feet
22 of residential and nonresidential development using the categories
23 in the applicable zoning ordinance.

24 (5) The proposed number of parking spaces.

25 (6) Any proposed point sources of air or water pollutants.

26 (7) Any species of special concern known to occur on the
27 property.

28 (8) Whether a portion of the property is located within any of
29 the following:

30 (A) A very high fire hazard severity zone, as determined by the
31 Director of Forestry and Fire Protection pursuant to Section 51178.

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

34 (C) A hazardous waste site that is listed pursuant to Section
35 25001 of the Health and Safety Code or a hazardous substances
36 release site designated by the Department of Toxic Substances
37 Control pursuant to Section 25356 of the Health and Safety Code.

38 (D) A special flood hazard area subject to inundation by the 1
39 percent annual chance flood (100-year flood) as determined by

1 the Federal Emergency Management Agency in any official maps
2 published by the Federal Emergency Management Agency.

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

12 (F) A stream or other resource that may be subject to a
13 streambed alteration agreement pursuant to Chapter 6 (commencing
14 with Section 1600) of Division 2 of the Fish and Game Code.

15 (9) Any historic or cultural resources known to exist on the
16 property.

17 (10) The number of proposed below market rate units and their
18 affordability levels.

19 (11) The number of bonus units and any incentives, concessions,
20 waivers, or parking reductions requested pursuant to Section 65915.

21 (12) Whether any approvals under the Subdivision Map Act
22 (Division 2 (commencing with Section 66410)), including, but not
23 limited to, a parcel map, a tentative map, or a condominium map,
24 are being requested.

25 (13) The applicant's contact information and, if the applicant
26 does not own the property, consent from the property owner to
27 submit the application.

28 (14) For a housing development project proposed to be located
29 within the coastal zone, whether any portion of the property
30 contains any of the following:

31 (A) Wetlands, as described in subdivision (b) of Section 13577
32 of Title 14 of the California Code of Regulations.

33 (B) Environmentally sensitive habitat areas, as defined in
34 Section 30240 of the Public Resources Code.

35 (C) A tsunami run-up zone.

36 (D) Use of the site for public access to or along the coast.

37 (15) The number of existing residential units on the project site
38 that will be demolished and whether each existing unit is occupied
39 or unoccupied.

1 (16) A site map showing a stream or other resource that may
2 be subject to a streambed alteration agreement pursuant to Chapter
3 6 (commencing with Section 1600) of Division 2 of the Fish and
4 Game Code and an aerial site photograph showing existing site
5 conditions of environmental site features that would be subject to
6 regulations by a public agency, including creeks and wetlands.

7 (17) The location of any recorded public easement, such as
8 easements for storm drains, water lines, and other public rights of
9 way.

10 (b) (1) Each local agency shall compile a checklist and
11 application form that applicants for housing development projects
12 may use for the purpose of satisfying the requirements for submittal
13 of a preliminary application.

14 (2) The Department of Housing and Community Development
15 shall adopt a standardized form that applicants for housing
16 development projects may use for the purpose of satisfying the
17 requirements for submittal of a preliminary application if a local
18 agency has not developed its own application form pursuant to
19 paragraph (1). Adoption of the standardized form shall not be
20 subject to Chapter 3.5 (commencing with Section 11340) of Part
21 1 of Division 3 of Title 2 of the Government Code.

22 (3) A checklist or form shall not require or request any
23 information beyond that expressly identified in subdivision (a).

24 (c) After submittal of all of the information required by
25 subdivision (a), if the development proponent revises the project
26 such that the number of residential units or square footage of
27 construction changes by 20 percent or more, exclusive of any
28 increase resulting from the receipt of a density bonus, incentive,
29 concession, waiver, or similar provision, the housing development
30 project shall not be deemed to have submitted a preliminary
31 application that satisfies this section until the development
32 proponent resubmits the information required by subdivision (a)
33 so that it reflects the revisions. For purposes of this subdivision,
34 “square footage of construction” means the building area, as
35 defined in the California Building Standards Code (Title 24 of the
36 California Code of Regulations).

37 (d) (1) Within 180 calendar days after submitting a preliminary
38 application with all of the information required by subdivision (a)
39 to a city, county, or city and county, the development proponent
40 shall submit an application for a development project that includes

1 all of the information required to process the development
2 application consistent with Sections 65940, 65941, and 65941.5.

3 (2) If the public agency determines that the application for the
4 development project is not complete pursuant to Section 65943,
5 the development proponent shall submit the specific information
6 needed to complete the application within 90 days of receiving the
7 agency's written identification of the necessary information. If the
8 development proponent does not submit this information within
9 the 90-day period, then the preliminary application shall expire
10 and have no further force or effect.

11 (3) This section shall not require an affirmative determination
12 by a city, county, or city and county regarding the completeness
13 of a preliminary application or a development application for
14 purposes of compliance with this section.

15 (e) Notwithstanding any other law, submission of a preliminary
16 application in accordance with this section shall not preclude the
17 listing of a tribal cultural resource on a national, state, tribal, or
18 local historic register list on or after the date that the preliminary
19 application is submitted. For purposes of Section 65589.5 or any
20 other law, the listing of a tribal cultural site on a national, state,
21 tribal, or local historic register on or after the date the preliminary
22 application was submitted shall not be deemed to be a change to
23 the ordinances, policies, and standards adopted and in effect at the
24 time that the preliminary application was submitted.

25 (f) This section shall remain in effect only until January 1, 2025,
26 and as of that date is repealed.

27 SEC. 6. Section 65941.5 of the Government Code is amended
28 to read:

29 65941.5. Each public agency shall notify applicants for
30 development permits of the time limits established for the review
31 and approval of development permits pursuant to Article 3
32 (commencing with Section 65940) and Article 5 (commencing
33 with Section 65950), of the requirements of subdivision (e) of
34 Section 25001 of the Health and Safety Code, and of the public
35 notice distribution requirements under applicable provisions of
36 law. The public agency shall also notify applicants regarding the
37 provisions of Section 65961. The public agency may charge
38 applicants a reasonable fee not to exceed the amount reasonably
39 necessary to provide the service required by this section. If a fee

1 is charged under this section, the fee shall be collected as part of
2 the application fee charged for the development permit.

3 SEC. 7. Section 65962.5 of the Government Code is repealed.

4 SEC. 8. Section 17021.8 of the Health and Safety Code is
5 amended to read:

6 17021.8. (a) A development proponent may submit an
7 application for a development that is subject to a streamlined,
8 ministerial approval process, provided in subdivision (b), and is
9 not subject to a conditional use permit if all of the following
10 requirements are met:

11 (1) The development is located on land designated as agricultural
12 in the applicable city or county general plan.

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

15 (A) Within the coastal zone, as defined in *Division 20*
16 (*commencing with Section 30103 30000*) of the Public Resources
17 Code.

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

20 (C) Within a very high fire hazard severity zone, as determined
21 by the Director of Forestry and Fire Protection pursuant to Section
22 51178 of the Government Code, or within a high or very high fire
23 hazard severity zone as indicated on maps adopted by the
24 Department of Forestry and Fire Protection pursuant to Section
25 4202 of the Public Resources Code.

26 (D) A hazardous waste site that is listed pursuant to Section
27 25001 or a hazardous substances release site designated by the
28 Department of Toxic Substances Control pursuant to Section
29 25356, unless the Department of Toxic Substances Control has
30 cleared the site for residential use or residential mixed uses.

31 (E) Within a delineated earthquake fault zone as determined by
32 the State Geologist in any official maps published by the State
33 Geologist, unless the development complies with applicable seismic
34 protection building code standards adopted by the California
35 Building Standards Commission under the California Building
36 Standards Law (Part 2.5 (*commencing with Section 18901*)), and
37 by any local building department under Chapter 12.2 (*commencing*
38 *with Section 8875*) of Division 1 of Title 2 of the Government
39 Code.

1 (F) Within a flood plain as determined by maps promulgated
2 by the Federal Emergency Management Agency, unless the
3 development has been issued a flood plain development permit
4 pursuant to Part 59 (commencing with Section 59.1) and Part 60
5 (commencing with Section 60.1) of Subchapter B of Chapter I of
6 Title 44 of the Code of Federal Regulations.

7 (G) Within a floodway as determined by maps promulgated by
8 the Federal Emergency Management Agency.

9 (H) Lands identified for conservation in an adopted natural
10 community conservation plan pursuant to the Natural Community
11 Conservation Planning Act (Chapter 10 (commencing with Section
12 2800) of Division 3 of the Fish and Game Code), habitat
13 conservation plan pursuant to the federal Endangered Species Act
14 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
15 resource protection plan.

16 (I) Lands under conservation easement. For purposes of this
17 section, “conservation easement” shall not include a contract
18 executed pursuant to the Williamson Act (Chapter 7 (commencing
19 with Section 51200) of Division 1 of Title 5 of the Government
20 Code).

21 (J) Lands with groundwater levels within five feet of the soil
22 surface and for which the development would be served by an
23 onsite wastewater disposal system serving more than six family
24 housing units.

25 (3) The development is an eligible agricultural employee housing
26 development that satisfies the requirements specified in subdivision
27 (i).

28 (b) (1) If a local government determines that a development
29 submitted under this section does not meet the requirements
30 specified in subdivision (a), the local government shall provide
31 the development proponent written documentation of the
32 requirement or requirements the development does not satisfy and
33 an explanation for the reason or reasons the development does not
34 satisfy the requirement or requirements, as follows:

35 (A) Within 30 days of submission of the development to the
36 local government under this section if the development contains
37 50 or fewer housing units.

38 (B) Within 60 days of submission of the development to the
39 local government under this section if the development contains
40 more than 50 housing units.

1 (2) If the local government fails to provide the required
2 documentation pursuant to paragraph (1), the development shall
3 be deemed to satisfy the requirements specified in paragraph (2)
4 of subdivision (a).

5 (c) The local government’s planning commission or an
6 equivalent board or commission responsible for review and
7 approval of development projects, or the city council or board of
8 supervisors, as appropriate, may conduct a development review
9 or public oversight of the development. The development review
10 or public oversight shall be objective and be strictly focused on
11 assessing compliance with criteria required for streamlined projects,
12 as well as any reasonable objective development standards
13 described in this section. For purposes of this subdivision,
14 “objective development standards” mean standards that involve
15 no personal or subjective judgment by a public official and are
16 uniformly verifiable by reference to an external and uniform
17 benchmark or criterion available and knowable by both the
18 development applicant or proponent and the public official prior
19 to submission. The development review or public oversight shall
20 be completed as follows and shall not in any way inhibit, chill, or
21 preclude the ministerial approval provided by this section or its
22 effect, as applicable:

23 (1) Within 90 days of submission of the development to the
24 local government under this section if the development contains
25 50 or fewer housing units.

26 (2) Within 180 days of submission of the development to the
27 local government under this section if the development contains
28 more than 50 housing units.

29 (d) An agricultural employee housing development that is
30 approved under this section shall not be subject to the density limits
31 specified in Section 17021.6 in order to constitute an agricultural
32 land use for purposes of that section.

33 (e) Notwithstanding Section 17021.6, a local government may
34 subject an agricultural employee housing development that is
35 approved under this section to the following written, objective
36 development standards:

37 (1) (A) A requirement that the development have adequate
38 water and wastewater facilities and dry utilities to serve the project.

39 (B) A requirement that the development be connected to an
40 existing public water system that has not been identified as failing

1 or being at risk of failing to provide an adequate supply of safe
2 drinking water.

3 (C) If the development proposes to include 10 or more units, a
4 requirement that the development connect to an existing municipal
5 sewer system that has adequate capacity to serve the project. If the
6 local agency has adopted an approved local agency management
7 program for onsite wastewater treatment systems, those
8 requirements shall apply to the development.

9 (2) A requirement that the property on which the development
10 is located be either:

11 (A) Within one-half mile of a duly designated collector road
12 with an Average Daily Trips (ADT) of 6,000 or greater.

13 (B) Adjacent to a duly designated collector road with an ADT
14 of 2,000 or greater.

15 (3) A requirement that the development include off-street
16 parking based upon demonstrated need, provided that the standards
17 do not require more parking for eligible agricultural employee
18 housing developments than for other residential uses of similar
19 size within the jurisdiction.

20 (4) Notwithstanding Section 17020 or any other law, health,
21 safety, and welfare standards for agricultural employee housing,
22 including, but not limited to, density, minimum living space per
23 occupant, minimum sanitation facilities, minimum sanitation
24 requirements, and similar standards.

25 (5) Standards requiring that if a potential for exposure to
26 significant hazards from surrounding properties or activities is
27 found to exist, the effects of the potential exposure shall be
28 mitigated to a level of insignificance in compliance with state and
29 federal requirements.

30 (f) Neither the approval of a development under this section,
31 including the permit processing, nor the application of development
32 standards under this section shall be deemed to be discretionary
33 acts within the meaning of the California Environmental Quality
34 Act (Division 13 (commencing with Section 21000) of the Public
35 Resources Code).

36 (g) Notwithstanding Section 17021.6, a local agency may impose
37 fees and other exactions otherwise authorized by law that are
38 essential to provide necessary public services and facilities to the
39 eligible agricultural employee housing development.

40 (h) This section shall not be construed to:

1 (1) Prohibit a local agency from requiring an eligible agricultural
2 employee housing development to comply with objective,
3 quantifiable, written development standards, conditions, and
4 policies that are consistent with subdivision (e) and appropriate
5 to, and consistent with, meeting the jurisdiction’s need for
6 farmworker housing, as identified pursuant to paragraph (7) of
7 subdivision (a) of Section 65583 of the Government Code.

8 (2) Prohibit a local agency from disapproving an eligible
9 agricultural employee housing development if the eligible
10 agricultural employee housing development as proposed would
11 have a specific, adverse impact upon the public health or safety,
12 and there is no feasible method to satisfactorily mitigate or avoid
13 the specific, adverse impact without rendering the development
14 unaffordable to lower income households, as defined in Section
15 50079.5, or rendering the development financially infeasible. As
16 used in this paragraph, a “specific, adverse impact” means a
17 significant, quantifiable, direct, and unavoidable impact, based on
18 objective, identified written public health or safety standards,
19 policies, or conditions as they existed on the date the application
20 was deemed complete.

21 (3) Prohibit a local agency from disapproving an eligible
22 agricultural employee housing development if that project would
23 be in violation of any applicable state or federal law.

24 (4) Change any obligations to comply with any other existing
25 laws, including, but not limited to, Section ~~116527~~, *116527 of this*
26 *code*, Section 106.4 of the Water Code, Division 7 (commencing
27 with Section 13000) of the Water Code, and Part 12 (commencing
28 with Section 116270) of Division ~~104~~. *104 of this code*.

29 (i) For purposes of this section, “eligible agricultural employee
30 housing development” means an agricultural employee housing
31 development that satisfies all of the following:

32 (1) The agricultural employee housing does not contain
33 dormitory-style housing.

34 (2) The development consists of no more than 36 units or spaces
35 designed for use by a single family or household.

36 (3) (A) Except as otherwise provided in subparagraph (B), the
37 agricultural employee housing will be maintained and operated by
38 a qualified affordable housing organization that has been certified
39 pursuant to Section 17030.10. The development proponent shall
40 submit proof of issuance of the qualified affordable housing

1 organization’s certification by the enforcement agency. The
2 qualified affordable housing organization shall provide for onsite
3 management of the development.

4 (B) In the case of agricultural employee housing that is
5 maintained and operated by a local public housing agency or a
6 multicounty, state, or multistate agency that has been certified as
7 a qualified affordable housing organization as required by this
8 paragraph, that agency either directly maintains and operates the
9 agricultural employee housing or contracts with another qualified
10 affordable housing organization that has been certified pursuant
11 to Section 17030.10.

12 (C) The local government ensures an affordability covenant is
13 recorded on the property to ensure the affordability of the proposed
14 agricultural employee housing for agricultural employees for not
15 less than 55 years. For purposes of this paragraph, “affordability”
16 means the agricultural housing is made available at an affordable
17 rent, as defined in Section 50053, to lower income households, as
18 defined in Section 50079.5.

19 (4) The agricultural employee housing is not ineligible for state
20 funding pursuant to paragraph (1) of subdivision (b) of Section
21 50205.

22 (j) For purposes of this section, “agricultural employee housing”
23 means employee housing for agricultural employees as both terms
24 are defined in Sections 17008 and 17021, respectively.

25 (k) The Legislature hereby declares that it is the policy of this
26 state that each county and city shall permit and encourage the
27 development and use of sufficient numbers and types of agricultural
28 employee housing as are commensurate with local need. The
29 Legislature further finds and declares that this section addresses
30 a matter of statewide concern rather than a municipal affair as that
31 term is used in Section 5 of Article XI of the California
32 Constitution. Therefore, this section applies to all cities, including
33 charter cities.

34 SEC. 9. Chapter 6 (commencing with Section 25000) is added
35 to Division 20 of the Health and Safety Code, to read:

1 CHAPTER 6. ~~THE HAZARDOUS WASTE~~ CONTAMINATED SITE
2 CLEANUP AND SAFETY ACT
3

4 25000. This chapter shall be known and may be cited as the
5 ~~Hazardous Waste~~ Contaminated Site Cleanup and Safety Act.

6 25001. (a) The Department of Toxic Substances Control shall
7 compile and update as appropriate, but at least annually, and shall
8 ~~submit to the Secretary for Environmental Protection, post on its~~
9 ~~internet website~~, a list of all of the following:

10 (1) All hazardous waste facilities subject to corrective action
11 pursuant to ~~Section 25187 or~~ Section 25187.5.

12 ~~(2) All land designated as hazardous waste property or border~~
13 ~~zone property pursuant to former Article 11 (commencing with~~
14 ~~Section 25220) of Chapter 6.5.~~

15 ~~(3)~~

16 (2) All information received by the Department of Toxic
17 Substances Control pursuant to Section 25242 regarding hazardous
18 waste disposals on public land.

19 ~~(4)~~

20 (3) All sites listed pursuant to Section 25356.

21 (b) The State Water Resources Control Board shall compile and
22 update as appropriate, but at least annually, and shall ~~submit to~~
23 ~~the Secretary for Environmental Protection, post on its internet~~
24 ~~website~~, a list of all of the following:

25 ~~(1) All public drinking water wells that contain detectable levels~~
26 ~~of organic contaminants and that are subject to water analysis~~
27 ~~pursuant to Section 116395.~~

28 ~~(2)~~

29 (1) All underground storage tanks for which an unauthorized
30 release report is filed pursuant to Section 25295.

31 ~~(3)~~

32 (2) All solid waste disposal facilities from which there is a
33 migration of hazardous waste and for which a California regional
34 water quality control board has notified the Department of Toxic
35 Substances Control pursuant to subdivision (e) of Section 13273
36 of the Water Code.

37 ~~(4)~~

38 (3) All cease and desist orders issued pursuant to Section 13301
39 of the Water Code and all cleanup or abatement orders issued

1 pursuant to Section 13304 of the Water Code that concern the
2 discharge of wastes that are hazardous materials.

3 (c) ~~The~~A local enforcement agency, as designated pursuant to
4 Section 18051 of Title 14 of the California Code of Regulations,
5 shall compile as appropriate, but at least annually, and shall submit
6 to the Department of Resources Recycling and Recovery, a list of
7 all solid waste disposal facilities from which there is a known
8 migration of hazardous waste. The Department of Resources
9 Recycling and Recovery shall compile the local lists into a
10 statewide list, ~~which shall be submitted to the Secretary for~~
11 ~~Environmental Protection and shall be available to any person who~~
12 ~~requests the information. list and shall post the statewide list on~~
13 ~~its internet website.~~

14 (d) The Secretary for Environmental Protection shall ~~consolidate~~
15 ~~the information submitted under this section and post the~~
16 ~~information prepared pursuant to this section, or links to that~~
17 ~~information, on the California Environmental Protection Agency's~~
18 ~~internet website. The secretary shall also distribute the information~~
19 ~~in a timely fashion to each city and county in which sites on the~~
20 ~~lists are located, as well as to any other person upon request. The~~
21 ~~secretary may charge a reasonable fee to persons requesting the~~
22 ~~information, other than cities, counties, or cities and counties, to~~
23 ~~cover the cost of developing, maintaining, and reproducing and~~
24 ~~distributing the information.~~

25 (e) Before a lead agency, as defined in Section 65929 of the
26 Government Code, accepts as complete an application for any
27 development project that will be used by any person, the applicant
28 shall consult the lists ~~sent to the appropriate city or county~~ *posted*
29 *pursuant to this section* and shall submit a signed statement to the
30 lead agency indicating whether the project and any alternatives
31 are located on a site that is included on any of the lists compiled
32 under this section and shall specify the list or lists. If the site is
33 included on a list, and the list is not specified on the statement, the
34 lead agency shall notify the applicant pursuant to Section 65943
35 of the Government Code. The statement shall read as follows:

36
37 HAZARDOUS WASTE AND SUBSTANCES STATEMENT

38
39 The development project and any alternatives proposed in this
40 application are included on the lists compiled pursuant to Section 25001

1 of the Health and Safety Code. Accordingly, the project applicant is
2 required to submit a signed statement that contains the following
3 information:

- 4
- 5 Name of project applicant:
- 6 Address:
- 7 Phone number:
- 8 Address of site (street name and number, if available, and ZIP Code):
- 9 Local agency (city/county):
- 10 Assessor’s book, page, and parcel number:
- 11 Specify the list(s) under Section 25001 of the Health and Safety Code:
- 12 Regulatory identification number(s):
- 13 Date of list(s):
- 14

15 _____
16 Applicant, Date

17
18 SEC. 10. Section 25220 of the Health and Safety Code is
19 amended to read:

20 25220. (a) The department shall notify the planning and
21 building department of each city, county, or regional council of
22 governments of any recorded land use restriction imposed within
23 the jurisdiction of the local agency pursuant to former Section
24 25229, 25230, or 25398.7, as those sections read prior to the
25 effective date of this article, or Section 25202.5, 25221, or 25355.5.
26 Upon receiving this notification, the planning and building
27 department shall do both of the following:

28 (1) File all recorded land use restrictions in the property files
29 of the city, county, or regional council of government.

30 (2) Require that a person requesting a land use that differs from
31 those filed land use restrictions on the property apply to the
32 department for a variance or a removal of the land use restrictions
33 pursuant to Section 25223 or 25224.

34 (b) A planning and building department of a city, county, or
35 regional council of governments may assess a property owner a
36 reasonable fee to cover the costs of taking the actions required by
37 subdivision (a). For purposes of this subdivision, “property owner”
38 does not include a person who holds evidence of ownership solely
39 to protect a security interest in the property, unless the person

1 participates, or has a legal right to participate, in the management
2 of the property.

3 (c) The department shall maintain a list of all recorded land use
4 restrictions, including deed restrictions, recorded pursuant to former
5 Sections 25229, 25230, and 25398.7, as those sections read prior
6 to the effective date of this article, and Sections 25202.5, 25221,
7 and 25355.5. The list shall, at a minimum, provide the street
8 address, or, if a street address is not available, an equivalent
9 description of location for a rural location or the latitude and
10 longitude of each property. The department shall update the list
11 as new deed restrictions are recorded. The department shall make
12 the list available to the public, upon request, and shall make the
13 list available on the department’s internet website. The list shall
14 also be incorporated into the list of sites compiled pursuant to
15 Section 25001.

16 SEC. 11. Section 25395.117 of the Health and Safety Code is
17 amended to read:

18 25395.117. (a) On or before January 1, 2006, the agency and
19 the California Environmental Protection Agency shall implement
20 the requirements imposed by this section.

21 (b) The department shall revise and upgrade the department’s
22 database systems, including the list of hazardous substances release
23 sites designated pursuant to Section 25356 and the information
24 sent to the agency pursuant to Section 25001, to enable
25 compatibility with existing databases of the board, including the
26 GIS mapping system established pursuant to Section 25299.97.
27 The department shall also install improvements to the database
28 systems to maintain and display information that includes the
29 number of brownfield sites, each brownfield site’s location,
30 acreage, response action, site assessments, and the number of
31 orphan sites where the department is overseeing the response
32 action.

33 (c) The California Environmental Protection Agency, the
34 department, the regional boards, and the board shall expand their
35 respective internet websites to allow access to information about
36 brownfield sites and other response action sites through a single
37 internet website portal.

38 SEC. 12. Section 21084 of the Public Resources Code is
39 amended to read:

1 21084. (a) The guidelines prepared and adopted pursuant to
2 Section 21083 shall include a list of classes of projects that have
3 been determined not to have a significant effect on the environment
4 and that shall be exempt from this division. In adopting the
5 guidelines, the Secretary of the Natural Resources Agency shall
6 make a finding that the listed classes of projects referred to in this
7 section do not have a significant effect on the environment.

8 (b) A project's greenhouse gas emissions shall not, in and of
9 themselves, be deemed to cause an exemption adopted pursuant
10 to subdivision (a) to be inapplicable if the project complies with
11 all applicable regulations or requirements adopted to implement
12 statewide, regional, or local plans consistent with Section 15183.5
13 of Title 14 of the California Code of Regulations.

14 (c) A project that may result in damage to scenic resources,
15 including, but not limited to, trees, historic buildings, rock
16 outcroppings, or similar resources, within a highway designated
17 as an official state scenic highway, pursuant to Article 2.5
18 (commencing with Section 260) of Chapter 2 of Division 1 of the
19 Streets and Highways Code, shall not be exempted from this
20 division pursuant to subdivision (a). This subdivision does not
21 apply to improvements as mitigation for a project for which a
22 negative declaration has been approved or an environmental impact
23 report has been certified.

24 (d) A project located on a site that is included on any list
25 compiled pursuant to *Chapter 6 (commencing with Section 25001*
26 *25000)* of the Health and Safety Code shall not be exempted from
27 this division pursuant to subdivision (a) *of this subdivision* or
28 paragraph (3) of subdivision (b) of Section 15061 of Title 14 of
29 the California Code of Regulations.

30 (e) A project that may cause a substantial adverse change in the
31 significance of a historical resource, as specified in Section
32 21084.1, shall not be exempted from this division pursuant to
33 subdivision (a).

34 SEC. 13. Section 21092.6 of the Public Resources Code is
35 amended to read:

36 21092.6. (a) The lead agency shall consult the lists compiled
37 pursuant to Section 25001 of the Health and Safety Code to
38 determine whether the project and any alternatives are located on
39 a site which is included on any list. The lead agency shall indicate
40 whether a site is on any list not already identified by the applicant.

1 The lead agency shall specify the list and include the information
2 in the statement required pursuant to subdivision (e) of Section
3 25001 of the Health and Safety Code in the notice required
4 pursuant to Section 21080.4, a negative declaration, and a draft
5 environmental impact report. The requirement in this section to
6 specify any list shall not be construed to limit compliance with
7 this division.

8 (b) If a project or any alternatives are located on a site which is
9 included on any of the lists compiled pursuant to Section 25001
10 of the Health and Safety Code and the lead agency did not
11 accurately specify or did not specify any list pursuant to subdivision
12 (a), the California Environmental Protection Agency shall notify
13 the lead agency specifying any list with the site when it receives
14 notice pursuant to Section 21080.4, a negative declaration, and a
15 draft environmental impact report. The California Environmental
16 Protection Agency shall not be liable for failure to notify the lead
17 agency under this subdivision.

18 SEC. 14. Section 21155.1 of the Public Resources Code is
19 amended to read:

20 21155.1. If the legislative body finds, after conducting a public
21 hearing, that a transit priority project meets all of the requirements
22 of subdivisions (a) and (b) and one of the requirements of
23 subdivision (c), the transit priority project is declared to be a
24 sustainable communities project and shall be exempt from this
25 division.

26 (a) The transit priority project complies with all of the following
27 environmental criteria:

28 (1) The transit priority project and other projects approved prior
29 to the approval of the transit priority project but not yet built can
30 be adequately served by existing utilities, and the transit priority
31 project applicant has paid, or has committed to pay, all applicable
32 in-lieu or development fees.

33 (2) (A) The site of the transit priority project does not contain
34 wetlands or riparian areas and does not have significant value as
35 a wildlife habitat, and the transit priority project does not harm
36 any species protected by the federal Endangered Species Act of
37 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection
38 Act (Chapter 10 (commencing with Section 1900) of Division 2
39 of the Fish and Game Code), or the California Endangered Species
40 Act (Chapter 1.5 (commencing with Section 2050) of Division 3

1 of the Fish and Game Code), and the project does not cause the
2 destruction or removal of any species protected by a local ordinance
3 in effect at the time the application for the project was deemed
4 complete.

5 (B) For purposes of this paragraph, “wetlands” has the same
6 meaning as in the United States Fish and Wildlife Service Manual,
7 Part 660 FW 2 (June 21, 1993).

8 (C) For purposes of this paragraph:

9 (i) “Riparian areas” means those areas transitional between
10 terrestrial and aquatic ecosystems and that are distinguished by
11 gradients in biophysical conditions, ecological processes, and biota.
12 A riparian area is an area through which surface and subsurface
13 hydrology connect waterbodies with their adjacent uplands. A
14 riparian area includes those portions of terrestrial ecosystems that
15 significantly influence exchanges of energy and matter with aquatic
16 ecosystems. A riparian area is adjacent to perennial, intermittent,
17 and ephemeral streams, lakes, and estuarine-marine shorelines.

18 (ii) “Wildlife habitat” means the ecological communities upon
19 which wild animals, birds, plants, fish, amphibians, and
20 invertebrates depend for their conservation and protection.

21 (iii) Habitat of “significant value” includes wildlife habitat of
22 national, statewide, regional, or local importance; habitat for
23 species protected by the federal Endangered Species Act of 1973
24 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species
25 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
26 of the Fish and Game Code), or the Native Plant Protection Act
27 (Chapter 10 (commencing with Section 1900) of Division 2 of the
28 Fish and Game Code); habitat identified as candidate, fully
29 protected, sensitive, or species of special status by local, state, or
30 federal agencies; or habitat essential to the movement of resident
31 or migratory wildlife.

32 (3) The site of the transit priority project is not included on any
33 list of facilities and sites compiled pursuant to Section 25001 of
34 the Health and Safety Code.

35 (4) The site of the transit priority project is subject to a
36 preliminary endangerment assessment prepared by an
37 environmental assessor to determine the existence of any release
38 of a hazardous substance on the site and to determine the potential
39 for exposure of future occupants to significant health hazards from
40 any nearby property or activity.

1 (A) If a release of a hazardous substance is found to exist on
2 the site, the release shall be removed or any significant effects of
3 the release shall be mitigated to a level of insignificance in
4 compliance with state and federal requirements.

5 (B) If a potential for exposure to significant hazards from
6 surrounding properties or activities is found to exist, the effects of
7 the potential exposure shall be mitigated to a level of insignificance
8 in compliance with state and federal requirements.

9 (5) The transit priority project does not have a significant effect
10 on historical resources pursuant to Section 21084.1.

11 (6) The transit priority project site is not subject to any of the
12 following:

13 (A) A wildland fire hazard, as determined by the Department
14 of Forestry and Fire Protection, unless the applicable general plan
15 or zoning ordinance contains provisions to mitigate the risk of a
16 wildland fire hazard.

17 (B) An unusually high risk of fire or explosion from materials
18 stored or used on nearby properties.

19 (C) Risk of a public health exposure at a level that would exceed
20 the standards established by any state or federal agency.

21 (D) Seismic risk as a result of being within a delineated
22 earthquake fault zone, as determined pursuant to Section 2622, or
23 a seismic hazard zone, as determined pursuant to Section 2696,
24 unless the applicable general plan or zoning ordinance contains
25 provisions to mitigate the risk of an earthquake fault or seismic
26 hazard zone.

27 (E) Landslide hazard, flood plain, flood way, or restriction zone,
28 unless the applicable general plan or zoning ordinance contains
29 provisions to mitigate the risk of a landslide or flood.

30 (7) The transit priority project site is not located on developed
31 open space.

32 (A) For purposes of this paragraph, “developed open space”
33 means land that meets all of the following criteria:

34 (i) Is publicly owned, or financed in whole or in part by public
35 funds.

36 (ii) Is generally open to, and available for use by, the public.

37 (iii) Is predominantly lacking in structural development other
38 than structures associated with open spaces, including, but not
39 limited to, playgrounds, swimming pools, ballfields, enclosed child
40 play areas, and picnic facilities.

1 (B) For purposes of this paragraph, “developed open space”
2 includes land that has been designated for acquisition by a public
3 agency for developed open space, but does not include lands
4 acquired with public funds dedicated to the acquisition of land for
5 housing purposes.

6 (8) The buildings in the transit priority project are 15 percent
7 more energy efficient than required by Chapter 6 of Title 24 of the
8 California Code of Regulations and the buildings and landscaping
9 are designed to achieve 25 percent less water usage than the
10 average household use in the region.

11 (b) The transit priority project meets all of the following land
12 use criteria:

13 (1) The site of the transit priority project is not more than eight
14 acres in total area.

15 (2) The transit priority project does not contain more than 200
16 residential units.

17 (3) The transit priority project does not result in any net loss in
18 the number of affordable housing units within the project area.

19 (4) The transit priority project does not include any single level
20 building that exceeds 75,000 square feet.

21 (5) Any applicable mitigation measures or performance
22 standards or criteria set forth in the prior environmental impact
23 reports, and adopted in findings, have been or will be incorporated
24 into the transit priority project.

25 (6) The transit priority project is determined not to conflict with
26 nearby operating industrial uses.

27 (7) The transit priority project is located within one-half mile
28 of a rail transit station or a ferry terminal included in a regional
29 transportation plan or within one-quarter mile of a high-quality
30 transit corridor included in a regional transportation plan.

31 (c) The transit priority project meets at least one of the following
32 three criteria:

33 (1) The transit priority project meets both of the following:

34 (A) At least 20 percent of the housing will be sold to families
35 of moderate income, or not less than 10 percent of the housing
36 will be rented to families of low income, or not less than 5 percent
37 of the housing is rented to families of very low income.

38 (B) The transit priority project developer provides sufficient
39 legal commitments to the appropriate local agency to ensure the
40 continued availability and use of the housing units for very low,

1 low-, and moderate-income households at monthly housing costs
2 with an affordable housing cost or affordable rent, as defined in
3 Section 50052.5 or 50053 of the Health and Safety Code,
4 respectively, for the period required by the applicable financing.
5 Rental units shall be affordable for at least 55 years. Ownership
6 units shall be subject to resale restrictions or equity sharing
7 requirements for at least 30 years.

8 (2) The transit priority project developer has paid or will pay
9 in-lieu fees pursuant to a local ordinance in an amount sufficient
10 to result in the development of an equivalent number of units that
11 would otherwise be required pursuant to paragraph (1).

12 (3) The transit priority project provides public open space equal
13 to or greater than five acres per 1,000 residents of the project.

14 SEC. 15. Section 21159.21 of the Public Resources Code is
15 amended to read:

16 21159.21. A housing project qualifies for an exemption from
17 this division pursuant to Section 21159.22, 21159.23, or 21159.24
18 if it meets the criteria in the applicable section and all of the
19 following criteria:

20 (a) The project is consistent with any applicable general plan,
21 specific plan, and local coastal program, including any mitigation
22 measures required by a plan or program, as that plan or program
23 existed on the date that the application was deemed complete and
24 with any applicable zoning ordinance, as that zoning ordinance
25 existed on the date that the application was deemed complete,
26 except that a project shall not be deemed to be inconsistent with
27 the zoning designation for the site if that zoning designation is
28 inconsistent with the general plan only because the project site has
29 not been rezoned to conform with a more recently adopted general
30 plan.

31 (b) Community-level environmental review has been adopted
32 or certified.

33 (c) The project and other projects approved prior to the approval
34 of the project can be adequately served by existing utilities, and
35 the project applicant has paid, or has committed to pay, all
36 applicable in-lieu or development fees.

37 (d) The site of the project does not contain wetlands, does not
38 have any value as a wildlife habitat, and the project does not harm
39 any species protected by the federal Endangered Species Act of
40 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection

1 Act (Chapter 10 (commencing with Section 1900) of Division 2
2 of the Fish and Game Code), the California Endangered Species
3 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
4 of the Fish and Game Code), and the project does not cause the
5 destruction or removal of any species protected by a local ordinance
6 in effect at the time the application for the project was deemed
7 complete. For purposes of this subdivision, “wetlands” has the
8 same meaning as in Section 328.3 of Title 33 of the Code of
9 Federal Regulations and “wildlife habitat” means the ecological
10 communities upon which wild animals, birds, plants, fish,
11 amphibians, and invertebrates depend for their conservation and
12 protection.

13 (e) The site of the project is not included on any list of facilities
14 and sites compiled pursuant to Section 25001 of the Health and
15 Safety Code.

16 (f) The site of the project is subject to a preliminary
17 endangerment assessment prepared by an environmental assessor
18 to determine the existence of any release of a hazardous substance
19 on the site and to determine the potential for exposure of future
20 occupants to significant health hazards from any nearby property
21 or activity.

22 (1) If a release of a hazardous substance is found to exist on the
23 site, the release shall be removed, or any significant effects of the
24 release shall be mitigated to a level of insignificance in compliance
25 with state and federal requirements.

26 (2) If a potential for exposure to significant hazards from
27 surrounding properties or activities is found to exist, the effects of
28 the potential exposure shall be mitigated to a level of insignificance
29 in compliance with state and federal requirements.

30 (g) The project does not have a significant effect on historical
31 resources pursuant to Section 21084.1.

32 (h) The project site is not subject to any of the following:

33 (1) A wildland fire hazard, as determined by the Department of
34 Forestry and Fire Protection, unless the applicable general plan or
35 zoning ordinance contains provisions to mitigate the risk of a
36 wildland fire hazard.

37 (2) An unusually high risk of fire or explosion from materials
38 stored or used on nearby properties.

39 (3) Risk of a public health exposure at a level that would exceed
40 the standards established by any state or federal agency.

1 (4) Within a delineated earthquake fault zone, as determined
2 pursuant to Section 2622, or a seismic hazard zone, as determined
3 pursuant to Section 2696, unless the applicable general plan or
4 zoning ordinance contains provisions to mitigate the risk of an
5 earthquake fault or seismic hazard zone.

6 (5) Landslide hazard, flood plain, flood way, or restriction zone,
7 unless the applicable general plan or zoning ordinance contains
8 provisions to mitigate the risk of a landslide or flood.

9 (i) (1) The project site is not located on developed open space.

10 (2) For purposes of this subdivision, “developed open space”
11 means land that meets all of the following criteria:

12 (A) Is publicly owned, or financed in whole or in part by public
13 funds.

14 (B) Is generally open to, and available for use by, the public.

15 (C) Is predominantly lacking in structural development other
16 than structures associated with open spaces, including, but not
17 limited to, playgrounds, swimming pools, ballfields, enclosed child
18 play areas, and picnic facilities.

19 (3) For purposes of this subdivision, “developed open space”
20 includes land that has been designated for acquisition by a public
21 agency for developed open space, but does not include lands
22 acquired by public funds dedicated to the acquisition of land for
23 housing purposes.

24 (j) The project site is not located within the boundaries of a state
25 conservancy.

26 SEC. 16. Section 21159.25 of the Public Resources Code is
27 amended to read:

28 21159.25. (a) For purposes of this section, the following
29 definitions apply:

30 (1) “Residential or mixed-use housing project” means a project
31 consisting of multifamily residential uses only or a mix of
32 multifamily residential and nonresidential uses, with at least
33 two-thirds of the square footage of the development designated
34 for residential use.

35 (2) “Substantially surrounded” means at least 75 percent of the
36 perimeter of the project site adjoins, or is separated only by an
37 improved public right-of-way from, parcels that are developed
38 with qualified urban uses. The remainder of the perimeter of the
39 site adjoins, or is separated only by an improved public
40 right-of-way from, parcels that have been designated for qualified

1 urban uses in a zoning, community plan, or general plan for which
2 an environmental impact report was certified.

3 (b) Without limiting any other statutory exemption or categorical
4 exemption, this division does not apply to a residential or
5 mixed-use housing project if all of the following conditions
6 described in this section are met:

7 (1) The project is consistent with the applicable general plan
8 designation and all applicable general plan policies as well as with
9 applicable zoning designation and regulations.

10 (2) (A) The public agency approving or carrying out the project
11 determines, based upon substantial evidence, that the density of
12 the residential portion of the project is not less than the greater of
13 the following:

14 (i) The average density of the residential properties that adjoin,
15 or are separated only by an improved public right-of-way from,
16 the perimeter of the project site, if any.

17 (ii) The average density of the residential properties within
18 1,500 feet of the project site.

19 (iii) Six dwelling units per acre.

20 (B) The residential portion of the project is a multifamily
21 housing development that contains six or more residential units.

22 (3) The proposed development occurs within an unincorporated
23 area of a county on a project site of no more than five acres
24 substantially surrounded by qualified urban uses.

25 (4) The project site has no value as habitat for endangered, rare,
26 or threatened species.

27 (5) Approval of the project would not result in any significant
28 effects relating to transportation, noise, air quality, greenhouse gas
29 emissions, or water quality.

30 (6) The site can be adequately served by all required utilities
31 and public services.

32 (7) The project is located on a site that is a legal parcel or parcels
33 wholly within the boundaries of an urbanized area or urban cluster,
34 as designated by the United States Census Bureau.

35 (c) Subdivision (b) does not apply to a residential or mixed-use
36 housing project if any of the following conditions exist:

37 (1) The cumulative impact of successive projects of the same
38 type in the same place over time is significant.

1 (2) There is a reasonable possibility that the project will have
2 a significant effect on the environment due to unusual
3 circumstances.

4 (3) The project may result in damage to scenic resources,
5 including, but not limited to, trees, historic buildings, rock
6 outcroppings, or similar resources, within a highway officially
7 designated as a state scenic highway.

8 (4) The project is located on a site which is included on any list
9 compiled pursuant to Section 25001 of the Health and Safety Code.

10 (5) The project may cause a substantial adverse change in the
11 significance of a historical resource.

12 (d) If the lead agency determines that a project is not subject to
13 this division under this section and it determines to approve or
14 carry out the project, the lead agency shall file a notice with the
15 Office of Planning and Research and with the county clerk in the
16 county in which the project will be located in the manner specified
17 in subdivisions (b) and (c) of Section 21152.

18 (e) This section shall remain in effect only until January 1, 2025,
19 and as of that date is repealed.

AMENDED IN SENATE MARCH 1, 2021

SENATE BILL

No. 37

Introduced by Senator Cortese

December 7, 2020

An act to amend Sections 65913.4, 65913.15, 65940, 65941.1, and 65941.5 of, and to repeal Section 65962.5 of, the Government Code, to amend Sections 17021.8, 25220, and 25395.117 of, and to add Chapter 6 (commencing with Section 25000) ~~of to~~ Division 20 ~~to, of,~~ the Health and Safety Code, and to amend Sections 21084, 21092.6, 21155.1, 21159.21, and 21159.25 of the Public Resources Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Cortese. Contaminated sites: the ~~Dominic Cortese~~ "Cortese List" Act of 2021. *Hazardous Waste Site Cleanup and Safety Act.*

(1) Existing law requires the Department of Toxic Substances Control to compile a list of specified information, including, but not limited to, hazardous waste facilities where the department took, or contracted for the taking of, corrective action to remedy or prevent, for example, an imminent substantial danger to public health. Existing law requires the State Department of Health Care Services to compile a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. Existing law also requires the State Water Resources Control Board to compile a list of specified information, including, but not limited to, all cease and desist orders and cleanup and abatement orders issued under the Water Code that concern the discharge of wastes that are hazardous materials. Existing law requires these agencies to update

the information as appropriate, but at least annually, and to submit the information to the Secretary of Environmental Protection. Under existing law, the Secretary for Environmental Protection is required to consolidate the information provided by these state agencies and distribute the information in a timely fashion to each city and county in which sites on the lists are located and to any other person upon request. ~~The information consolidated and made available by the Secretary for Environmental Protection is commonly known as the “Cortese List.”~~

This bill would enact the ~~Dominic Cortese “Cortese List” Act of 2021~~ *Hazardous Waste Site Cleanup and Safety Act* and would recodify the above-described provisions with certain revisions. The bill would require the Department of Toxic Substances Control to also list hazardous waste facilities where the department issued an order for corrective action after determining that there is or has been a release of hazardous waste or constituents into the environment from a facility. The bill would require the State Water Resources Control Board, instead of the ~~State~~ *State* Department of Health Care Services, to compile and update a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. The bill would require the Secretary for Environmental Protection to *additionally* post the *consolidated* information on the California Environmental Protection Agency’s internet website.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the Office of Planning and Research to prepare and adopt guidelines to implement CEQA, which guidelines shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA. Existing law provides that a project located on a site that is included on the ~~Cortese List~~ *consolidated list created and distributed*

by the Secretary for Environmental Protection shall not be exempted from CEQA under this provision.

This bill would expressly provide that a project that is included on the ~~Cortese List~~ consolidated list created, distributed, and posted online by the Secretary for Environmental Protection shall also not be exempt from CEQA as a project where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, commonly known as the “common-sense exemption.”

This bill would make other nonsubstantive, conforming, and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 65913.4 of the Government Code is
2 amended to read:

3 65913.4. (a) A development proponent may submit an
4 application for a development that is subject to the streamlined,
5 ministerial approval process provided by subdivision (c) and is
6 not subject to a conditional use permit if the development complies
7 with subdivision (b) and satisfies all of the following objective
8 planning standards:

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

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

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

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

23 (C) It is zoned for residential use or residential mixed-use
24 development, or has a general plan designation that allows

1 residential use or a mix of residential and nonresidential uses, and
2 at least two-thirds of the square footage of the development is
3 designated for residential use. Additional density, floor area, and
4 units, and any other concession, incentive, or waiver of
5 development standards granted pursuant to the Density Bonus Law
6 in Section 65915 shall be included in the square footage
7 calculation. The square footage of the development shall not
8 include underground space, such as basements or underground
9 parking garages.

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

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

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

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

22 (4) The development satisfies subparagraphs (A) and (B) below:

23 (A) Is located in a locality that the department has determined
24 is subject to this subparagraph on the basis that the number of units
25 that have been issued building permits, as shown on the most recent
26 production report received by the department, is less than the
27 locality's share of the regional housing needs, by income category,
28 for that reporting period. A locality shall remain eligible under
29 this subparagraph until the department's determination for the next
30 reporting period.

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

34 (i) The locality did not submit its latest production report to the
35 department by the time period required by Section 65400, or that
36 production report reflects that there were fewer units of above
37 moderate-income housing issued building permits than were
38 required for the regional housing needs assessment cycle for that
39 reporting period. In addition, if the project contains more than 10
40 units of housing, the project does either of the following:

1 (I) The project dedicates a minimum of 10 percent of the total
2 number of units to housing affordable to households making at or
3 below 80 percent of the area median income. However, if the
4 locality has adopted a local ordinance that requires that greater
5 than 10 percent of the units be dedicated to housing affordable to
6 households making below 80 percent of the area median income,
7 that local ordinance applies.

8 (II) (ia) If the project is located within the San Francisco Bay
9 area, the project, in lieu of complying with subclause (I), dedicates
10 20 percent of the total number of units to housing affordable to
11 households making below 120 percent of the area median income
12 with the average income of the units at or below 100 percent of
13 the area median income. However, a local ordinance adopted by
14 the locality applies if it requires greater than 20 percent of the units
15 be dedicated to housing affordable to households making at or
16 below 120 percent of the area median income, or requires that any
17 of the units be dedicated at a level deeper than 120 percent. In
18 order to comply with this subclause, the rent or sale price charged
19 for units that are dedicated to housing affordable to households
20 between 80 percent and 120 percent of the area median income
21 shall not exceed 30 percent of the gross income of the household.

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

27 (ii) The locality’s latest production report reflects that there
28 were fewer units of housing issued building permits affordable to
29 either very low income or low-income households by income
30 category than were required for the regional housing needs
31 assessment cycle for that reporting period, and the project seeking
32 approval dedicates 50 percent of the total number of units to
33 housing affordable to households making at or below 80 percent
34 of the area median income. However, if the locality has adopted
35 a local ordinance that requires that greater than 50 percent of the
36 units be dedicated to housing affordable to households making at
37 or below 80 percent of the area median income, that local ordinance
38 applies.

39 (iii) The locality did not submit its latest production report to
40 the department by the time period required by Section 65400, or

1 if the production report reflects that there were fewer units of
2 housing affordable to both income levels described in clauses (i)
3 and (ii) that were issued building permits than were required for
4 the regional housing needs assessment cycle for that reporting
5 period, the project seeking approval may choose between utilizing
6 clause (i) or (ii).

7 (C) (i) A development proponent that uses a unit of affordable
8 housing to satisfy the requirements of subparagraph (B) may also
9 satisfy any other local or state requirement for affordable housing,
10 including local ordinances or the Density Bonus Law in Section
11 65915, provided that the development proponent complies with
12 the applicable requirements in the state or local law.

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

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

22 (5) The development, excluding any additional density or any
23 other concessions, incentives, or waivers of development standards
24 granted pursuant to the Density Bonus Law in Section 65915, is
25 consistent with objective zoning standards, objective subdivision
26 standards, and objective design review standards in effect at the
27 time that the development is submitted to the local government
28 under this section, or at the time a notice of intent is submitted
29 pursuant to subdivision (b), whichever occurs earlier. For purposes
30 of this paragraph, “objective zoning standards,” “objective
31 subdivision standards,” and “objective design review standards”
32 mean standards that involve no personal or subjective judgment
33 by a public official and are uniformly verifiable by reference to
34 an external and uniform benchmark or criterion available and
35 knowable by both the development applicant or proponent and the
36 public official before submittal. These standards may be embodied
37 in alternative objective land use specifications adopted by a city
38 or county, and may include, but are not limited to, housing overlay
39 zones, specific plans, inclusionary zoning ordinances, and density
40 bonus ordinances, subject to the following:

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

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

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

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

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

22 (A) A coastal zone, as defined in Section 30103 of the Public
23 Resources Code.

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

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

34 (D) Within a very high fire hazard severity zone, as determined
35 by the Director of Forestry and Fire Protection pursuant to Section
36 51178, or within a high or very high fire hazard severity zone as
37 indicated on maps adopted by the Department of Forestry and Fire
38 Protection pursuant to Section 4202 of the Public Resources Code.
39 This subparagraph does not apply to sites excluded from the
40 specified hazard zones by a local agency, pursuant to subdivision

1 (b) of Section 51179, or sites that have adopted fire hazard
2 mitigation measures pursuant to existing building standards or
3 state fire mitigation measures applicable to the development.

4 (E) A hazardous waste site that is listed pursuant to Section
5 25001 of the Health and Safety Code or a hazardous substances
6 release site designated by the Department of Toxic Substances
7 Control pursuant to Section 25356 of the Health and Safety Code,
8 unless the State Department of Public Health, State Water
9 Resources Control Board, or Department of Toxic Substances
10 Control has cleared the site for residential use or residential mixed
11 uses.

12 (F) Within a delineated earthquake fault zone as determined by
13 the State Geologist in any official maps published by the State
14 Geologist, unless the development complies with applicable seismic
15 protection building code standards adopted by the California
16 Building Standards Commission under the California Building
17 Standards Law (Part 2.5 (commencing with Section 18901) of
18 Division 13 of the Health and Safety Code), and by any local
19 building department under Chapter 12.2 (commencing with Section
20 8875) of Division 1 of Title 2.

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

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

37 (ii) The site meets Federal Emergency Management Agency
38 requirements necessary to meet minimum flood plain management
39 criteria of the National Flood Insurance Program pursuant to Part
40 59 (commencing with Section 59.1) and Part 60 (commencing

1 with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
2 Code of Federal Regulations.

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

16 (I) Lands identified for conservation in an adopted natural
17 community conservation plan pursuant to the Natural Community
18 Conservation Planning Act (Chapter 10 (commencing with Section
19 2800) of Division 3 of the Fish and Game Code), habitat
20 conservation plan pursuant to the federal Endangered Species Act
21 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
22 resource protection plan.

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

31 (K) Lands under conservation easement.

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

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

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

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

1 (iii) Housing that has been occupied by tenants within the past
2 10 years.

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

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

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

13 (8) The development proponent has done both of the following,
14 as applicable:

15 (A) Certified to the locality that either of the following is true,
16 as applicable:

17 (i) The entirety of the development is a public work for purposes
18 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
19 2 of the Labor Code.

20 (ii) If the development is not in its entirety a public work, that
21 all construction workers employed in the execution of the
22 development will be paid at least the general prevailing rate of per
23 diem wages for the type of work and geographic area, as
24 determined by the Director of Industrial Relations pursuant to
25 Sections 1773 and 1773.9 of the Labor Code, except that
26 apprentices registered in programs approved by the Chief of the
27 Division of Apprenticeship Standards may be paid at least the
28 applicable apprentice prevailing rate. If the development is subject
29 to this subparagraph, then for those portions of the development
30 that are not a public work all of the following shall apply:

31 (I) The development proponent shall ensure that the prevailing
32 wage requirement is included in all contracts for the performance
33 of the work.

34 (II) All contractors and subcontractors shall pay to all
35 construction workers employed in the execution of the work at
36 least the general prevailing rate of per diem wages, except that
37 apprentices registered in programs approved by the Chief of the
38 Division of Apprenticeship Standards may be paid at least the
39 applicable apprentice prevailing rate.

1 (III) Except as provided in subclause (V), all contractors and
2 subcontractors shall maintain and verify payroll records pursuant
3 to Section 1776 of the Labor Code and make those records
4 available for inspection and copying as provided therein.

5 (IV) Except as provided in subclause (V), the obligation of the
6 contractors and subcontractors to pay prevailing wages may be
7 enforced by the Labor Commissioner through the issuance of a
8 civil wage and penalty assessment pursuant to Section 1741 of the
9 Labor Code, which may be reviewed pursuant to Section 1742 of
10 the Labor Code, within 18 months after the completion of the
11 development, by an underpaid worker through an administrative
12 complaint or civil action, or by a joint labor-management
13 committee through a civil action pursuant to Section 1771.2 of the
14 Labor Code. If a civil wage and penalty assessment is issued, the
15 contractor, subcontractor, and surety on a bond or bonds issued to
16 secure the payment of wages covered by the assessment shall be
17 liable for liquidated damages pursuant to Section 1742.1 of the
18 Labor Code.

19 (V) Subclauses (III) and (IV) shall not apply if all contractors
20 and subcontractors performing work on the development are subject
21 to a project labor agreement that requires the payment of prevailing
22 wages to all construction workers employed in the execution of
23 the development and provides for enforcement of that obligation
24 through an arbitration procedure. For purposes of this clause,
25 “project labor agreement” has the same meaning as set forth in
26 paragraph (1) of subdivision (b) of Section 2500 of the Public
27 Contract Code.

28 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the
29 Labor Code, the requirement that employer payments not reduce
30 the obligation to pay the hourly straight time or overtime wages
31 found to be prevailing shall not apply if otherwise provided in a
32 bona fide collective bargaining agreement covering the worker.
33 The requirement to pay at least the general prevailing rate of per
34 diem wages does not preclude use of an alternative workweek
35 schedule adopted pursuant to Section 511 or 514 of the Labor
36 Code.

37 (B) (i) For developments for which any of the following
38 conditions apply, certified that a skilled and trained workforce
39 shall be used to complete the development if the application is
40 approved:

1 (I) On and after January 1, 2018, until December 31, 2021, the
2 development consists of 75 or more units with a residential
3 component that is not 100 percent subsidized affordable housing
4 and will be located within a jurisdiction located in a coastal or bay
5 county with a population of 225,000 or more.

6 (II) On and after January 1, 2022, until December 31, 2025, the
7 development consists of 50 or more units with a residential
8 component that is not 100 percent subsidized affordable housing
9 and will be located within a jurisdiction located in a coastal or bay
10 county with a population of 225,000 or more.

11 (III) On and after January 1, 2018, until December 31, 2019,
12 the development consists of 75 or more units with a residential
13 component that is not 100 percent subsidized affordable housing
14 and will be located within a jurisdiction with a population of fewer
15 than 550,000 and that is not located in a coastal or bay county.

16 (IV) On and after January 1, 2020, until December 31, 2021,
17 the development consists of more than 50 units with a residential
18 component that is not 100 percent subsidized affordable housing
19 and will be located within a jurisdiction with a population of fewer
20 than 550,000 and that is not located in a coastal or bay county.

21 (V) On and after January 1, 2022, until December 31, 2025, the
22 development consists of more than 25 units with a residential
23 component that is not 100 percent subsidized affordable housing
24 and will be located within a jurisdiction with a population of fewer
25 than 550,000 and that is not located in a coastal or bay county.

26 (ii) For purposes of this section, “skilled and trained workforce”
27 has the same meaning as provided in Chapter 2.9 (commencing
28 with Section 2600) of Part 1 of Division 2 of the Public Contract
29 Code.

30 (iii) If the development proponent has certified that a skilled
31 and trained workforce will be used to complete the development
32 and the application is approved, all of the following shall apply:

33 (I) The applicant shall require in all contracts for the
34 performance of work that every contractor and subcontractor at
35 every tier will individually use a skilled and trained workforce to
36 complete the development.

37 (II) Every contractor and subcontractor shall use a skilled and
38 trained workforce to complete the development.

39 (III) Except as provided in subclause (IV), the applicant shall
40 provide to the locality, on a monthly basis while the development

1 or contract is being performed, a report demonstrating compliance
2 with Chapter 2.9 (commencing with Section 2600) of Part 1 of
3 Division 2 of the Public Contract Code. A monthly report provided
4 to the locality under this subclause shall be a public record under
5 the California Public Records Act (Chapter 3.5 (commencing with
6 Section 6250) of Division 7 of Title 1) and shall be open to public
7 inspection. An applicant that fails to provide a monthly report
8 demonstrating compliance with Chapter 2.9 (commencing with
9 Section 2600) of Part 1 of Division 2 of the Public Contract Code
10 shall be subject to a civil penalty of ten thousand dollars (\$10,000)
11 per month for each month for which the report has not been
12 provided. Any contractor or subcontractor that fails to use a skilled
13 and trained workforce shall be subject to a civil penalty of two
14 hundred dollars (\$200) per day for each worker employed in
15 contravention of the skilled and trained workforce requirement.
16 Penalties may be assessed by the Labor Commissioner within 18
17 months of completion of the development using the same
18 procedures for issuance of civil wage and penalty assessments
19 pursuant to Section 1741 of the Labor Code, and may be reviewed
20 pursuant to the same procedures in Section 1742 of the Labor
21 Code. Penalties shall be paid to the State Public Works
22 Enforcement Fund.

23 (IV) Subclause (III) shall not apply if all contractors and
24 subcontractors performing work on the development are subject
25 to a project labor agreement that requires compliance with the
26 skilled and trained workforce requirement and provides for
27 enforcement of that obligation through an arbitration procedure.
28 For purposes of this subparagraph, “project labor agreement” has
29 the same meaning as set forth in paragraph (1) of subdivision (b)
30 of Section 2500 of the Public Contract Code.

31 (C) Notwithstanding subparagraphs (A) and (B), a development
32 that is subject to approval under this section is exempt from any
33 requirement to pay prevailing wages or use a skilled and trained
34 workforce if it meets both of the following:

- 35 (i) The project includes 10 or fewer units.
- 36 (ii) The project is not a public work for purposes of Chapter 1
37 (commencing with Section 1720) of Part 7 of Division 2 of the
38 Labor Code.

39 (9) The development did not or does not involve a subdivision
40 of a parcel that is, or, notwithstanding this section, would otherwise

1 be, subject to the Subdivision Map Act (Division 2 (commencing
2 with Section 66410)) or any other applicable law authorizing the
3 subdivision of land, unless the development is consistent with all
4 objective subdivision standards in the local subdivision ordinance,
5 and either of the following apply:

6 (A) The development has received or will receive financing or
7 funding by means of a low-income housing tax credit and is subject
8 to the requirement that prevailing wages be paid pursuant to
9 subparagraph (A) of paragraph (8).

10 (B) The development is subject to the requirement that
11 prevailing wages be paid, and a skilled and trained workforce used,
12 pursuant to paragraph (8).

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

23 (b) (1) (A) (i) Before submitting an application for a
24 development subject to the streamlined, ministerial approval
25 process described in subdivision (c), the development proponent
26 shall submit to the local government a notice of its intent to submit
27 an application. The notice of intent shall be in the form of a
28 preliminary application that includes all of the information
29 described in Section 65941.1, as that section read on January 1,
30 2020.

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

1 American tribe that is traditionally and culturally affiliated with
2 the geographic area of the proposed development.

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

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

12 (ia) A description of the proposed development.

13 (ib) The location of the proposed development.

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

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

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

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

29 (C) The parties to a scoping consultation conducted under this
30 subdivision shall be the local government and any California Native
31 American tribe traditionally and culturally affiliated with the
32 geographic area of the proposed development. More than one
33 California Native American tribe traditionally and culturally
34 affiliated with the geographic area of the proposed development
35 may participate in the scoping consultation. However, the local
36 government, upon the request of any California Native American
37 tribe traditionally and culturally affiliated with the geographic area
38 of the proposed development, shall engage in a separate scoping
39 consultation with that California Native American tribe. The
40 development proponent and its consultants may participate in a

1 scoping consultation process conducted under this subdivision if
2 all of the following conditions are met:

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

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

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

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

17 (i) Subdivision (r) of Section 6254.

18 (ii) Section 6254.10.

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

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

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

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

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

36 (B) If, after concluding the scoping consultation, the parties
37 find that a potential tribal cultural resource could be affected by
38 the proposed development and an enforceable agreement is
39 documented between the California Native American tribe and the
40 local government on methods, measures, and conditions for tribal

1 cultural resource treatment, the development proponent may submit
2 the application for a development subject to the streamlined,
3 ministerial approval process described in subdivision (c). The local
4 government shall ensure that the enforceable agreement is included
5 in the requirements and conditions for the proposed development.

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

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

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

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

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

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

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

38 (B) The California Native American tribe accepted an invitation
39 to engage in a scoping consultation pursuant to subclause (II) of
40 clause (iii) of subparagraph (A) of paragraph (1) but substantially

1 failed to engage in the scoping consultation after repeated
2 documented attempts by the local government to engage the
3 California Native American tribe.

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

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

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

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

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

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

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

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

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

39 (iii) The parties to the scoping consultation do not agree as to
40 whether a potential tribal cultural resource will be affected by the

1 proposed development, as described in subparagraph (C) of
2 paragraph (4).

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

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

16 (7) For purposes of this subdivision:

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

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

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

1 (c) (1) If a local government determines that a development
2 submitted under this section is in conflict with any of the objective
3 planning standards specified in subdivision (a), it shall provide the
4 development proponent written documentation of which standard
5 or standards the development conflicts with, and an explanation
6 for the reason or reasons the development conflicts with that
7 standard or standards, as follows:

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

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

14 (2) If the local government fails to provide the required
15 documentation pursuant to paragraph (1), the development shall
16 be deemed to satisfy the objective planning standards specified in
17 subdivision (a).

18 (3) For purposes of this section, a development is consistent
19 with the objective planning standards specified in subdivision (a)
20 if there is substantial evidence that would allow a reasonable person
21 to conclude that the development is consistent with the objective
22 planning standards.

23 (d) (1) Any design review or public oversight of the
24 development may be conducted by the local government's planning
25 commission or any equivalent board or commission responsible
26 for review and approval of development projects, or the city council
27 or board of supervisors, as appropriate. That design review or
28 public oversight shall be objective and be strictly focused on
29 assessing compliance with criteria required for streamlined projects,
30 as well as any reasonable objective design standards published
31 and adopted by ordinance or resolution by a local jurisdiction
32 before submission of a development application, and shall be
33 broadly applicable to development within the jurisdiction. That
34 design review or public oversight shall be completed as follows
35 and shall not in any way inhibit, chill, or preclude the ministerial
36 approval provided by this section or its effect, as applicable:

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

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

4 (2) If the development is consistent with the requirements of
5 subparagraph (A) or (B) of paragraph (9) of subdivision (a) and
6 is consistent with all objective subdivision standards in the local
7 subdivision ordinance, an application for a subdivision pursuant
8 to the Subdivision Map Act (Division 2 (commencing with Section
9 66410)) shall be exempt from the requirements of the California
10 Environmental Quality Act (Division 13 (commencing with Section
11 21000) of the Public Resources Code) and shall be subject to the
12 public oversight timelines set forth in paragraph (1).

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

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

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

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

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

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

31 (f) (1) If a local government approves a development under
32 this section, then, notwithstanding any other law, that approval
33 shall not expire if the project includes public investment in housing
34 affordability, beyond tax credits, where 50 percent of the units are
35 affordable to households making at or below 80 percent of the area
36 median income.

37 (2) (A) If a local government approves a development under
38 this section and the project does not include 50 percent of the units
39 affordable to households making at or below 80 percent of the area
40 median income, that approval shall remain valid for three years

1 from the date of the final action establishing that approval, or if
2 litigation is filed challenging that approval, from the date of the
3 final judgment upholding that approval. Approval shall remain
4 valid for a project provided that vertical construction of the
5 development has begun and is in progress. For purposes of this
6 subdivision, “in progress” means one of the following:

7 (i) The construction has begun and has not ceased for more than
8 180 days.

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

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

19 (3) If a local government approves a development under this
20 section, that approval shall remain valid for three years from the
21 date of the final action establishing that approval and shall remain
22 valid thereafter for a project so long as vertical construction of the
23 development has begun and is in progress. Additionally, the
24 development proponent may request, and the local government
25 shall have discretion to grant, an additional one-year extension to
26 the original three-year period. The local government’s action and
27 discretion in determining whether to grant the foregoing extension
28 shall be limited to considerations and processes set forth in this
29 section.

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

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

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

7 (D) A guideline that was adopted or amended by the department
8 pursuant to subdivision (j) after a development was approved
9 through the streamlined ministerial approval process described in
10 subdivision (b) shall not be used as a basis to deny proposed
11 modifications.

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

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

22 (A) The development is revised such that the total number of
23 residential units or total square footage of construction changes
24 by 15 percent or more.

25 (B) The development is revised such that the total number of
26 residential units or total square footage of construction changes
27 by 5 percent or more and it is necessary to subject the development
28 to an objective standard beyond those in effect when the
29 development application was submitted in order to mitigate or
30 avoid a specific, adverse impact, as that term is defined in
31 subparagraph (A) of paragraph (1) of subdivision (j) of Section
32 65589.5, upon the public health or safety and there is no feasible
33 alternative method to satisfactorily mitigate or avoid the adverse
34 impact.

35 (C) Objective building standards contained in the California
36 Building Standards Code (Title 24 of the California Code of
37 Regulations), including, but not limited to, building plumbing,
38 electrical, fire, and grading codes, may be applied to all
39 modifications.

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

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

13 (2) A local government shall issue a subsequent permit required
14 for a development approved under this section if the application
15 substantially complies with the development as it was approved
16 pursuant to subdivision (c). Upon receipt of an application for a
17 subsequent permit, the local government shall process the permit
18 without unreasonable delay and shall not impose any procedure
19 or requirement that is not imposed on projects that are not approved
20 under this section. Issuance of subsequent permits shall implement
21 the approved development, and review of the permit application
22 shall not inhibit, chill, or preclude the development. For purposes
23 of this paragraph, a “subsequent permit” means a permit required
24 subsequent to receiving approval pursuant to subdivision (c), and
25 includes, but is not limited to, demolition, grading, encroachment,
26 and building permits and final maps, if necessary.

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

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

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

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

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

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

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

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

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

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

31 (1) Lease, convey, or encumber land owned by the local
32 government or the San Francisco Bay Area Rapid Transit District
33 or to facilitate the lease, conveyance, or encumbrance of land
34 owned by the local government, or for the lease of land owned by
35 the San Francisco Bay Area Rapid Transit District in association
36 with an eligible TOD project, as defined in Section 29010.1 of the
37 Public Utilities Code, nor to any decisions associated with that
38 lease, or to provide financial assistance to a development that
39 receives streamlined approval under this section that is to be used

1 for housing for persons and families of low or moderate income,
2 as defined in Section 50093 of the Health and Safety Code.

3 (2) Approve improvements located on land owned by the local
4 government or the San Francisco Bay Area Rapid Transit District
5 that are necessary to implement a development that receives
6 streamlined approval under this section that is to be used for
7 housing for persons and families of low or moderate income, as
8 defined in Section 50093 of the Health and Safety Code.

9 (k) For purposes of this section, the following terms have the
10 following meanings:

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

13 (2) “Affordable rent” has the same meaning as set forth in
14 Section 50053 of the Health and Safety Code.

15 (3) “Department” means the Department of Housing and
16 Community Development.

17 (4) “Development proponent” means the developer who submits
18 an application for streamlined approval under this section.

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

22 (6) “Locality” or “local government” means a city, including a
23 charter city, a county, including a charter county, or a city and
24 county, including a charter city and county.

25 (7) “Moderate income housing units” means housing units with
26 an affordable housing cost or affordable rent for persons and
27 families of moderate income, as that term is defined in Section
28 50093 of the Health and Safety Code.

29 (8) “Production report” means the information reported pursuant
30 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
31 65400.

32 (9) “State agency” includes every state office, officer,
33 department, division, bureau, board, and commission, but does not
34 include the California State University or the University of
35 California.

36 (10) “Subsidized” means units that are price or rent restricted
37 such that the units are affordable to households meeting the
38 definitions of very low income households and lower income,
39 households as defined in Sections 50079.5 and 50105 of the Health
40 and Safety Code.

1 (11) “Reporting period” means either of the following:

2 (A) The first half of the regional housing needs assessment
3 cycle.

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

5 (12) “Urban uses” means any current or former residential,
6 commercial, public institutional, transit or transportation passenger
7 facility, or retail use, or any combination of those uses.

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

15 (m) The determination of whether an application for a
16 development is subject to the streamlined ministerial approval
17 process provided by subdivision (c) is not a “project” as defined
18 in Section 21065 of the Public Resources Code.

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

23 (o) This section shall remain in effect only until January 1, 2026,
24 and as of that date is repealed.

25 SEC. 2. Section 65913.15 of the Government Code is amended
26 to read:

27 65913.15. (a) Notwithstanding Section 65913.4, a development
28 proponent may submit an application for a development that is
29 subject to the streamlined, ministerial approval process provided
30 by subdivision (b) and is not subject to a conditional use permit if
31 the development satisfies all of the following objective planning
32 standards:

33 (1) The development is located within the territorial boundaries
34 or a specialized residential planning area identified in the general
35 plan of, and adjacent to existing urban development within, any
36 of the following:

37 (A) The City of Biggs.

38 (B) The City of Corning.

39 (C) The City of Gridley.

40 (D) The City of Live Oak.

1 (E) The City of Orland.

2 (F) The City of Oroville.

3 (G) The City of Willows.

4 (H) The City of Yuba City.

5 (2) The development is either a residential development or a
6 mixed-use development that includes residential units with at least
7 two-thirds of the square footage of the development designated
8 for residential use, not including any land that may be devoted to
9 open-space or mitigation requirements.

10 (3) The development proponent has held at least one public
11 meeting on the proposed development before submitting an
12 application under this subdivision.

13 (4) The development has a minimum density of at least four
14 units per acre.

15 (5) The development is located on a site that meets both of the
16 following requirements:

17 (A) The site is no more than 50 acres.

18 (B) The site is zoned for residential use or residential mixed-use
19 development.

20 (6) The development, excluding any additional density or any
21 other concessions, incentives, or waivers of development standards
22 granted pursuant to the Density Bonus Law in Section 65915, is
23 consistent with objective zoning standards, objective subdivision
24 standards, and objective design review standards in effect at the
25 time that the development is submitted to the local government
26 under this section.

27 (7) The development will achieve sustainability standards
28 sufficient to receive a gold certification under the United States
29 Green Building Council's Leadership in Energy and Environmental
30 Design for Homes rating system or, in the case of a mixed-use
31 development, the Neighborhood Development or the New
32 Construction rating system, or the comparable rating under the
33 GreenPoint rating system or voluntary tier under the California
34 Green Building Code (Part 11 (commencing with Section 101) of
35 Title 24 of the California Code of Regulations).

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

38 (A) Either prime farmland or farmland of statewide importance,
39 as defined pursuant to United States Department of Agriculture
40 land inventory and monitoring criteria, as modified for California,

1 and designated on the maps prepared by the Farmland Mapping
2 and Monitoring Program of the Department of Conservation that
3 is protected pursuant to the ~~California Land Conservation~~
4 *Williamson Act of 1965* (Chapter 7 (commencing with Section
5 51200) of Part 1 of Division 1 of Title 5), or land zoned or
6 designated for agricultural protection or preservation by a local
7 ballot measure that was approved by the voters of that jurisdiction.

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

10 (C) Within a very high fire hazard severity zone, as determined
11 by the Director of Forestry and Fire Protection pursuant to Section
12 51178, or within a high or very high fire hazard severity zone as
13 indicated on maps adopted by the Department of Forestry and Fire
14 Protection pursuant to Section 4202 of the Public Resources Code.

15 (D) A hazardous waste site that is listed pursuant to Section
16 25001 of the Health and Safety Code or a hazardous substances
17 release site designated by the Department of Toxic Substances
18 Control pursuant to Section 25356 of the Health and Safety Code,
19 unless the Department of Toxic Substances Control has cleared
20 the site for residential use or residential mixed uses.

21 (E) Within a delineated earthquake fault zone as determined by
22 the State Geologist in any official maps published by the State
23 Geologist, unless the development complies with applicable seismic
24 protection building code standards adopted by the California
25 Building Standards Commission under the California Building
26 Standards Law (Part 2.5 (commencing with Section 18901) of
27 Division 13 of the Health and Safety Code), and by any local
28 building department under Chapter 12.2 (commencing with Section
29 8875) of Division 1 of Title 2.

30 (F) Within a special flood hazard area subject to inundation by
31 the 1 percent annual chance flood (100-year flood) as determined
32 by the Federal Emergency Management Agency in any official
33 maps published by the Federal Emergency Management Agency.
34 If a development proponent is able to satisfy all applicable federal
35 qualifying criteria in order to provide that the site satisfies this
36 subparagraph and is otherwise eligible for streamlined approval
37 under this section, a local government shall not deny the application
38 on the basis that the development proponent did not comply with
39 any additional permit requirement, standard, or action adopted by
40 that local government that is applicable to that site. A development

1 may be located on a site described in this subparagraph if either
2 of the following are met:

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

6 (ii) The site meets Federal Emergency Management Agency
7 requirements necessary to meet minimum flood plain management
8 criteria of the National Flood Insurance Program pursuant to Part
9 59 (commencing with Section 59.1) and Part 60 (commencing
10 with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
11 Code of Federal Regulations.

12 (G) Within a regulatory floodway as determined by the Federal
13 Emergency Management Agency in any official maps published
14 by the Federal Emergency Management Agency.

15 (H) Lands identified for conservation in an adopted natural
16 community conservation plan adopted on or before January 1,
17 2019, pursuant to the Natural Community Conservation Planning
18 Act (Chapter 10 (commencing with Section 2800) of Division 3
19 of the Fish and Game Code), habitat conservation plan pursuant
20 to the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
21 1531 et seq.), or other adopted natural resource protection plan.

22 (I) Habitat for protected species identified as candidate,
23 sensitive, or species of special status by state or federal agencies,
24 fully protected species, or species protected by any of the
25 following:

26 (i) The federal Endangered Species Act of 1973 (16 U.S.C. Sec.
27 1531 et seq.).

28 (ii) The California Endangered Species Act (Chapter 1.5
29 (commencing with Section 2050) of Division 3 of the Fish and
30 Game Code).

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

33 (J) Lands under conservation easement.

34 (9) The development does not require the demolition of a historic
35 structure that was placed on a national, state, or local historic
36 register.

37 (10) The development shall not be upon an existing parcel of
38 land or site that is governed under any of the following:

1 (A) The Mobilehome Residency Law (Chapter 2.5 (commencing
2 with Section 798) of Title 2 of Part 2 of Division 2 of the Civil
3 Code).

4 (B) The Recreational Vehicle Park Occupancy Law (Chapter
5 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of
6 Division 2 of the Civil Code).

7 (C) The Mobilehome Parks Act (Part 2.1 (commencing with
8 Section 18200) of Division 13 of the Health and Safety Code).

9 (D) The Special Occupancy Parks Act (Part 2.3 (commencing
10 with Section 18860) of Division 13 of the Health and Safety Code).

11 (11) (A) If the development would require the demolition of
12 any affordable housing units, the development shall replace those
13 units by providing at least the same number of units of equivalent
14 size to be made available at affordable housing cost to, and
15 occupied by, persons and families in the same income category as
16 those households in occupancy. If the income category of the
17 household in occupancy is not known, it shall be rebuttably
18 presumed that lower income households occupied the units in the
19 same proportion of lower income households to all households
20 within the jurisdiction, as determined by the most recently available
21 data from the United States Department of Housing and Urban
22 Development's Comprehensive Housing Affordability Strategy
23 database. All replacement calculations resulting in fractional units
24 shall be rounded to the next whole number.

25 (B) For purposes of this paragraph, "equivalent size" means
26 that the replacement units contain at least the same total number
27 of bedrooms as the units being replaced.

28 (b) (1) If a local government determines that a development
29 submitted under this section is in conflict with any of the objective
30 planning standards specified in subdivision (a), it shall provide the
31 development proponent written documentation of which standard
32 or standards the development conflicts with, and an explanation
33 for the reason or reasons the development conflicts with that
34 standard or standards, as follows:

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

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

1 (2) If the local government fails to provide the required
2 documentation pursuant to paragraph (1), the development shall
3 be deemed to satisfy the objective planning standards specified in
4 subdivision (a).

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

19 (1) Within 90 days of submittal of the development to the local
20 government under this section if the development contains 150 or
21 fewer housing units.

22 (2) Within 180 days of submittal of the development to the local
23 government under this section if the development contains more
24 than 150 housing units.

25 (d) Notwithstanding any other law, a city, whether or not it has
26 adopted an ordinance governing automobile parking requirements
27 for multifamily developments, shall not impose automobile parking
28 standards for a streamlined development that was approved under
29 this section if the development is located within one-half mile from
30 a high-quality bus corridor or major transit stop.

31 (e) (1) If a local government approves a development under
32 this section, then, notwithstanding any other law, that approval
33 shall not expire if the project includes public investment in housing
34 affordability and 50 percent of the units are affordable to
35 households making below 80 percent of the area median income.
36 For purposes of this paragraph, "public investment in housing
37 affordability" does not include tax credits.

38 (2) If a local government approves a development under this
39 section and the project does not include 50 percent of the units
40 affordable to households making below 80 percent of the area

1 median income, that approval shall automatically expire after three
2 years, except that a project may receive a one-time, one-year
3 extension if the project proponent provides documentation that
4 there has been significant progress toward getting the development
5 construction ready, such as filing a building permit application.

6 (3) If a local government approves a development under this
7 section, that approval shall remain valid for three years from the
8 date of the final action establishing that approval and shall remain
9 valid thereafter for a project so long as vertical construction of the
10 development has begun and is in progress. Additionally, the
11 development proponent may request, and the local government
12 shall have discretion to grant, an additional one-year extension to
13 the original three-year period. The local government's action and
14 discretion in determining whether to grant the foregoing extension
15 shall be limited to considerations and process set forth in this
16 section.

17 (4) If a local government approves a development under this
18 section, the local government shall file a notice of that approval
19 with the Office of Planning and Research.

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

25 (2) Notwithstanding paragraph (1), if the local government has
26 adopted a local ordinance that requires that a specified percentage
27 of the units of a housing development project be dedicated to
28 households making below 80 percent of the area median income,
29 that local ordinance applies.

30 (g) This section does not affect a development proponent's
31 ability to use any alternative streamlined by right permit processing
32 adopted by a local government, including the provisions of
33 subdivision (i) of Section 65583.2.

34 (h) For purposes of this section, the following terms have the
35 following meanings:

36 (1) "Affordable housing" means housing available at affordable
37 housing cost, and occupied by, persons and families of low or
38 moderate income as defined in Section 50093 of the Health and
39 Safety Code, lower income households as defined in Section
40 50079.5 of the Health and Safety Code, very low income

1 households as defined in Section 50105 of the Health and Safety
2 Code, and extremely low income households as defined in Section
3 50106 of the Health and Safety Code, for a period of 55 years for
4 rental housing and 45 years for owner-occupied housing.

5 (2) “Affordable housing cost” has the same meaning as
6 “affordable housing cost” described in Section 50052.5 of the
7 Health and Safety Code.

8 (3) “Area median income” means area median income as
9 periodically established by the Department of Housing and
10 Community Development pursuant to Section 50093 of the Health
11 and Safety Code.

12 (4) “Development proponent” means the developer who submits
13 an application for streamlined approval under this section.

14 (5) “High-quality bus corridor” means a corridor with fixed
15 route bus service with service intervals no longer than 15 minutes
16 during peak commute hours.

17 (6) “Local government” means a city or a county, including a
18 charter city or a charter county, that has jurisdiction over a
19 development for which a development proponent submits an
20 application under this section.

21 (7) “Major transit stop” means a site containing an existing rail
22 transit station, a ferry terminal served by either a bus or rail transit
23 service, or the intersection of two or more major bus routes with
24 a frequency of service interval of 15 minutes or less during the
25 morning and afternoon peak commute periods. “Major transit stop”
26 shall also include major transit stops included in a regional
27 transportation plan adopted pursuant to Chapter 2.5 (commencing
28 with Section 65080).

29 (8) (A) “Objective zoning standards,” “objective subdivision
30 standards,” and “objective design review standards” mean standards
31 that involve no personal or subjective judgment by a public official
32 and are uniformly verifiable by reference to an external and
33 uniform benchmark or criterion available and knowable by both
34 the development applicant or proponent and the public official
35 before submittal. These standards may be embodied in alternative
36 objective land use specifications adopted by a local government,
37 and may include, but are not limited to, housing overlay zones,
38 specific plans, inclusionary zoning ordinances, and density bonus
39 ordinances, subject to subparagraph (B).

1 (B) A development shall be deemed consistent with the objective
2 zoning standards related to housing density, as applicable, if the
3 density proposed is consistent with the allowable residential density
4 within that land use designation, notwithstanding any specified
5 unit allocation.

6 (i) This section shall remain in effect only until January 1, 2026,
7 and as of that date is repealed.

8 SEC. 3. Section 65940 of the Government Code, as amended
9 by Section 6 of Chapter 654 of the Statutes of 2019, is amended
10 to read:

11 65940. (a) (1) Each public agency shall compile one or more
12 lists that shall specify in detail the information that will be required
13 from any applicant for a development project. Each public agency
14 shall revise the list of information required from an applicant to
15 include a certification of compliance with Section 25001 of the
16 Health and Safety Code and the statement of application required
17 by Section 65943. Copies of the information, including the
18 statement of application required by Section 65943, shall be made
19 available to all applicants for development projects and to any
20 person who requests the information.

21 (2) An affected city or affected county, as defined in Section
22 66300, shall include the information necessary to determine
23 compliance with the requirements of subdivision (d) of Section
24 66300 in the list compiled pursuant to paragraph (1).

25 (b) The list of information required from any applicant shall
26 include, where applicable, identification of whether the proposed
27 project is located within 1,000 feet of a military installation,
28 beneath a low-level flight path or within special use airspace as
29 defined in Section 21098 of the Public Resources Code, and within
30 an urbanized area as defined in Section 65944.

31 (c) (1) A public agency that is not beneath a low-level flight
32 path or not within special use airspace and does not contain a
33 military installation is not required to change its list of information
34 required from applicants to comply with subdivision (b).

35 (2) A public agency that is entirely urbanized, as defined in
36 subdivision (e) of Section 65944, with the exception of a
37 jurisdiction that contains a military installation, is not required to
38 change its list of information required from applicants to comply
39 with subdivision (b).

1 (d) This section shall remain in effect only until January 1, 2025,
2 and as of that date is repealed.

3 SEC. 4. Section 65940 of the Government Code, as added by
4 Section 7 of Chapter 654 of the Statutes of 2019, is amended to
5 read:

6 65940. (a) Each public agency shall compile one or more lists
7 that shall specify in detail the information that will be required
8 from any applicant for a development project. Each public agency
9 shall revise the list of information required from an applicant to
10 include a certification of compliance with Section 25001 of the
11 Health and Safety Code and the statement of application required
12 by Section 65943. Copies of the information, including the
13 statement of application required by Section 65943, shall be made
14 available to all applicants for development projects and to any
15 person who requests the information.

16 (b) The list of information required from any applicant shall
17 include, where applicable, identification of whether the proposed
18 project is located within 1,000 feet of a military installation,
19 beneath a low-level flight path or within special use airspace as
20 defined in Section 21098 of the Public Resources Code, and within
21 an urbanized area as defined in Section 65944.

22 (c) (1) A public agency that is not beneath a low-level flight
23 path or not within special use airspace and does not contain a
24 military installation is not required to change its list of information
25 required from applicants to comply with subdivision (b).

26 (2) A public agency that is entirely urbanized, as defined in
27 subdivision (e) of Section 65944, with the exception of a
28 jurisdiction that contains a military installation, is not required to
29 change its list of information required from applicants to comply
30 with subdivision (b).

31 (d) This section shall become operative on January 1, 2025.

32 SEC. 5. Section 65941.1 of the Government Code is amended
33 to read:

34 65941.1. (a) An applicant for a housing development project,
35 as defined in paragraph (2) of subdivision (h) of Section 65589.5,
36 shall be deemed to have submitted a preliminary application upon
37 providing all of the following information about the proposed
38 project to the city, county, or city and county from which approval
39 for the project is being sought and upon payment of the permit
40 processing fee:

- 1 (1) The specific location, including parcel numbers, a legal
2 description, and site address, if applicable.
- 3 (2) The existing uses on the project site and identification of
4 major physical alterations to the property on which the project is
5 to be located.
- 6 (3) A site plan showing the location on the property, elevations
7 showing design, color, and material, and the massing, height, and
8 approximate square footage, of each building that is to be occupied.
- 9 (4) The proposed land uses by number of units and square feet
10 of residential and nonresidential development using the categories
11 in the applicable zoning ordinance.
- 12 (5) The proposed number of parking spaces.
- 13 (6) Any proposed point sources of air or water pollutants.
- 14 (7) Any species of special concern known to occur on the
15 property.
- 16 (8) Whether a portion of the property is located within any of
17 the following:
 - 18 (A) A very high fire hazard severity zone, as determined by the
19 Director of Forestry and Fire Protection pursuant to Section 51178.
 - 20 (B) Wetlands, as defined in the United States Fish and Wildlife
21 Service Manual, Part 660 FW 2 (June 21, 1993).
 - 22 (C) A hazardous waste site that is listed pursuant to Section
23 25001 of the Health and Safety Code or a hazardous substances
24 release site designated by the Department of Toxic Substances
25 Control pursuant to Section 25356 of the Health and Safety Code.
 - 26 (D) A special flood hazard area subject to inundation by the 1
27 percent annual chance flood (100-year flood) as determined by
28 the Federal Emergency Management Agency in any official maps
29 published by the Federal Emergency Management Agency.
 - 30 (E) A delineated earthquake fault zone as determined by the
31 State Geologist in any official maps published by the State
32 Geologist, unless the development complies with applicable seismic
33 protection building code standards adopted by the California
34 Building Standards Commission under the California Building
35 Standards Law (Part 2.5 (commencing with Section 18901) of
36 Division 13 of the Health and Safety Code), and by any local
37 building department under Chapter 12.2 (commencing with Section
38 8875) of Division 1 of Title 2.

- 1 (F) A stream or other resource that may be subject to a
2 streambed alteration agreement pursuant to Chapter 6 (commencing
3 with Section 1600) of Division 2 of the Fish and Game Code.
- 4 (9) Any historic or cultural resources known to exist on the
5 property.
- 6 (10) The number of proposed below market rate units and their
7 affordability levels.
- 8 (11) The number of bonus units and any incentives, concessions,
9 waivers, or parking reductions requested pursuant to Section 65915.
- 10 (12) Whether any approvals under the Subdivision Map ~~Act,~~
11 *Act (Division 2 (commencing with Section 66410))*, including, but
12 not limited to, a parcel map, a tentative map, or a condominium
13 map, are being requested.
- 14 (13) The applicant's contact information and, if the applicant
15 does not own the property, consent from the property owner to
16 submit the application.
- 17 (14) For a housing development project proposed to be located
18 within the coastal zone, whether any portion of the property
19 contains any of the following:
- 20 (A) Wetlands, as described in subdivision (b) of Section 13577
21 of Title 14 of the California Code of Regulations.
- 22 (B) Environmentally sensitive habitat areas, as defined in
23 Section 30240 of the Public Resources Code.
- 24 (C) A tsunami run-up zone.
- 25 (D) Use of the site for public access to or along the coast.
- 26 (15) The number of existing residential units on the project site
27 that will be demolished and whether each existing unit is occupied
28 or unoccupied.
- 29 (16) A site map showing a stream or other resource that may
30 be subject to a streambed alteration agreement pursuant to Chapter
31 6 (commencing with Section 1600) of Division 2 of the Fish and
32 Game Code and an aerial site photograph showing existing site
33 conditions of environmental site features that would be subject to
34 regulations by a public agency, including creeks and wetlands.
- 35 (17) The location of any recorded public easement, such as
36 easements for storm drains, water lines, and other public rights of
37 way.
- 38 (b) (1) Each local agency shall compile a checklist and
39 application form that applicants for housing development projects

1 may use for the purpose of satisfying the requirements for submittal
2 of a preliminary application.

3 (2) The Department of Housing and Community Development
4 shall adopt a standardized form that applicants for housing
5 development projects may use for the purpose of satisfying the
6 requirements for submittal of a preliminary application if a local
7 agency has not developed its own application form pursuant to
8 paragraph (1). Adoption of the standardized form shall not be
9 subject to Chapter 3.5 (commencing with Section 11340) of Part
10 1 of Division 3 of Title 2 of the Government Code.

11 (3) A checklist or form shall not require or request any
12 information beyond that expressly identified in subdivision (a).

13 (c) After submittal of all of the information required by
14 subdivision (a), if the development proponent revises the project
15 such that the number of residential units or square footage of
16 construction changes by 20 percent or more, exclusive of any
17 increase resulting from the receipt of a density bonus, incentive,
18 concession, waiver, or similar provision, the housing development
19 project shall not be deemed to have submitted a preliminary
20 application that satisfies this section until the development
21 proponent resubmits the information required by subdivision (a)
22 so that it reflects the revisions. For purposes of this subdivision,
23 “square footage of construction” means the building area, as
24 defined in the California Building Standards Code (Title 24 of the
25 California Code of Regulations).

26 (d) (1) Within 180 calendar days after submitting a preliminary
27 application with all of the information required by subdivision (a)
28 to a city, county, or city and county, the development proponent
29 shall submit an application for a development project that includes
30 all of the information required to process the development
31 application consistent with Sections 65940, 65941, and 65941.5.

32 (2) If the public agency determines that the application for the
33 development project is not complete pursuant to Section 65943,
34 the development proponent shall submit the specific information
35 needed to complete the application within 90 days of receiving the
36 agency’s written identification of the necessary information. If the
37 development proponent does not submit this information within
38 the 90-day period, then the preliminary application shall expire
39 and have no further force or effect.

1 (3) This section shall not require an affirmative determination
2 by a city, county, or city and county regarding the completeness
3 of a preliminary application or a development application for
4 purposes of compliance with this section.

5 (e) Notwithstanding any other law, submission of a preliminary
6 application in accordance with this section shall not preclude the
7 listing of a tribal cultural resource on a national, state, tribal, or
8 local historic register list on or after the date that the preliminary
9 application is submitted. For purposes of Section 65589.5 or any
10 other law, the listing of a tribal cultural site on a national, state,
11 tribal, or local historic register on or after the date the preliminary
12 application was submitted shall not be deemed to be a change to
13 the ordinances, policies, and standards adopted and in effect at the
14 time that the preliminary application was submitted.

15 (f) This section shall remain in effect only until January 1, 2025,
16 and as of that date is repealed.

17 SEC. 6. Section 65941.5 of the Government Code is amended
18 to read:

19 65941.5. Each public agency shall notify applicants for
20 development permits of the time limits established for the review
21 and approval of development permits pursuant to Article 3
22 (commencing with Section 65940) and Article 5 (commencing
23 with Section 65950), of the requirements of subdivision (e) of
24 Section 25001 of the Health and Safety Code, and of the public
25 notice distribution requirements under applicable provisions of
26 law. The public agency shall also notify applicants regarding the
27 provisions of Section 65961. The public agency may charge
28 applicants a reasonable fee not to exceed the amount reasonably
29 necessary to provide the service required by this section. If a fee
30 is charged under this section, the fee shall be collected as part of
31 the application fee charged for the development permit.

32 SEC. 7. Section 65962.5 of the Government Code is repealed.

33 SEC. 8. Section 17021.8 of the Health and Safety Code is
34 amended to read:

35 17021.8. (a) A development proponent may submit an
36 application for a development that is subject to a streamlined,
37 ministerial approval process, provided in subdivision (b), and is
38 not subject to a conditional use permit if all of the following
39 requirements are met:

1 (1) The development is located on land designated as agricultural
2 in the applicable city or county general plan.

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

5 (A) Within the coastal zone, as defined in Section 30103 of the
6 Public Resources Code.

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

9 (C) Within a very high fire hazard severity zone, as determined
10 by the Director of Forestry and Fire Protection pursuant to Section
11 51178 of the Government Code, or within a high or very high fire
12 hazard severity zone as indicated on maps adopted by the
13 Department of Forestry and Fire Protection pursuant to Section
14 4202 of the Public Resources Code.

15 (D) A hazardous waste site that is listed pursuant to Section
16 25001 or a hazardous substances release site designated by the
17 Department of Toxic Substances Control pursuant to Section
18 25356, unless the Department of Toxic Substances Control has
19 cleared the site for residential use or residential mixed uses.

20 (E) Within a delineated earthquake fault zone as determined by
21 the State Geologist in any official maps published by the State
22 Geologist, unless the development complies with applicable seismic
23 protection building code standards adopted by the California
24 Building Standards Commission under the California Building
25 Standards Law (Part 2.5 (commencing with Section 18901)), and
26 by any local building department under Chapter 12.2 (commencing
27 with Section 8875) of Division 1 of Title 2 of the Government
28 Code.

29 (F) Within a flood plain as determined by maps promulgated
30 by the Federal Emergency Management Agency, unless the
31 development has been issued a flood plain development permit
32 pursuant to Part 59 (commencing with Section 59.1) and Part 60
33 (commencing with Section 60.1) of Subchapter B of Chapter I of
34 Title 44 of the Code of Federal Regulations.

35 (G) Within a floodway as determined by maps promulgated by
36 the Federal Emergency Management Agency.

37 (H) Lands identified for conservation in an adopted natural
38 community conservation plan pursuant to the Natural Community
39 Conservation Planning Act (Chapter 10 (commencing with Section
40 2800) of Division 3 of the Fish and Game Code), habitat

1 conservation plan pursuant to the federal Endangered Species Act
2 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
3 resource protection plan.

4 (I) Lands under conservation easement. For purposes of this
5 section, “conservation easement” shall not include a contract
6 executed pursuant to the Williamson Act (Chapter 7 (commencing
7 with Section 51200) of Division 1 of Title 5 of the Government
8 Code).

9 (J) Lands with groundwater levels within five feet of the soil
10 surface and for which the development would be served by an
11 onsite wastewater disposal system serving more than six family
12 housing units.

13 (3) The development is an eligible agricultural employee housing
14 development that satisfies the requirements specified in subdivision
15 (i).

16 (b) (1) If a local government determines that a development
17 submitted under this section does not meet the requirements
18 specified in subdivision (a), the local government shall provide
19 the development proponent written documentation of the
20 requirement or requirements the development does not satisfy and
21 an explanation for the reason or reasons the development does not
22 satisfy the requirement or requirements, as follows:

23 (A) Within 30 days of submission of the development to the
24 local government under this section if the development contains
25 50 or fewer housing units.

26 (B) Within 60 days of submission of the development to the
27 local government under this section if the development contains
28 more than 50 housing units.

29 (2) If the local government fails to provide the required
30 documentation pursuant to paragraph (1), the development shall
31 be deemed to satisfy the requirements specified in paragraph (2)
32 of subdivision (a).

33 (c) The local government’s planning commission or an
34 equivalent board or commission responsible for review and
35 approval of development projects, or the city council or board of
36 supervisors, as appropriate, may conduct a development review
37 or public oversight of the development. The development review
38 or public oversight shall be objective and be strictly focused on
39 assessing compliance with criteria required for streamlined projects,
40 as well as any reasonable objective development standards

1 described in this section. For purposes of this subdivision,
2 “objective development standards” mean standards that involve
3 no personal or subjective judgment by a public official and are
4 uniformly verifiable by reference to an external and uniform
5 benchmark or criterion available and knowable by both the
6 development applicant or proponent and the public official prior
7 to submission. The development review or public oversight shall
8 be completed as follows and shall not in any way inhibit, chill, or
9 preclude the ministerial approval provided by this section or its
10 effect, as applicable:

11 (1) Within 90 days of submission of the development to the
12 local government under this section if the development contains
13 50 or fewer housing units.

14 (2) Within 180 days of submission of the development to the
15 local government under this section if the development contains
16 more than 50 housing units.

17 (d) An agricultural employee housing development that is
18 approved under this section shall not be subject to the density limits
19 specified in Section 17021.6 in order to constitute an agricultural
20 land use for purposes of that section.

21 (e) Notwithstanding Section 17021.6, a local government may
22 subject an agricultural employee housing development that is
23 approved under this section to the following written, objective
24 development standards:

25 (1) (A) A requirement that the development have adequate
26 water and wastewater facilities and dry utilities to serve the project.

27 (B) A requirement that the development be connected to an
28 existing public water system that has not been identified as failing
29 or being at risk of failing to provide an adequate supply of safe
30 drinking water.

31 (C) If the development proposes to include 10 or more units, a
32 requirement that the development connect to an existing municipal
33 sewer system that has adequate capacity to serve the project. If the
34 local agency has adopted an approved local agency management
35 program for onsite wastewater treatment systems, those
36 requirements shall apply to the development.

37 (2) A requirement that the property on which the development
38 is located be either:

39 (A) Within one-half mile of a duly designated collector road
40 with an Average Daily Trips (ADT) of 6,000 or greater.

1 (B) Adjacent to a duly designated collector road with an ADT
2 of 2,000 or greater.

3 (3) A requirement that the development include off-street
4 parking based upon demonstrated need, provided that the standards
5 do not require more parking for eligible agricultural employee
6 housing developments than for other residential uses of similar
7 size within the jurisdiction.

8 (4) Notwithstanding Section 17020 or any other law, health,
9 safety, and welfare standards for agricultural employee housing,
10 including, but not limited to, density, minimum living space per
11 occupant, minimum sanitation facilities, minimum sanitation
12 requirements, and similar standards.

13 (5) Standards requiring that if a potential for exposure to
14 significant hazards from surrounding properties or activities is
15 found to exist, the effects of the potential exposure shall be
16 mitigated to a level of insignificance in compliance with state and
17 federal requirements.

18 (f) Neither the approval of a development under this section,
19 including the permit processing, nor the application of development
20 standards under this section shall be deemed to be discretionary
21 acts within the meaning of the California Environmental Quality
22 Act (Division 13 (commencing with Section 21000) of the Public
23 Resources Code).

24 (g) Notwithstanding Section 17021.6, a local agency may impose
25 fees and other exactions otherwise authorized by law that are
26 essential to provide necessary public services and facilities to the
27 eligible agricultural employee housing development.

28 (h) This section shall not be construed to:

29 (1) Prohibit a local agency from requiring an eligible agricultural
30 employee housing development to comply with objective,
31 quantifiable, written development standards, conditions, and
32 policies that are consistent with subdivision (e) and appropriate
33 to, and consistent with, meeting the jurisdiction's need for
34 farmworker housing, as identified pursuant to paragraph (7) of
35 subdivision (a) of Section 65583 of the Government Code.

36 (2) Prohibit a local agency from disapproving an eligible
37 agricultural employee housing development if the eligible
38 agricultural employee housing development as proposed would
39 have a specific, adverse impact upon the public health or safety,
40 and there is no feasible method to satisfactorily mitigate or avoid

1 the specific, adverse impact without rendering the development
2 unaffordable to lower income households, as defined in Section
3 50079.5, or rendering the development financially infeasible. As
4 used in this paragraph, a “specific, adverse impact” means a
5 significant, quantifiable, direct, and unavoidable impact, based on
6 objective, identified written public health or safety standards,
7 policies, or conditions as they existed on the date the application
8 was deemed complete.

9 (3) Prohibit a local agency from disapproving an eligible
10 agricultural employee housing development if that project would
11 be in violation of any applicable state or federal law.

12 (4) Change any obligations to comply with any other existing
13 laws, including, but not limited to, Section 116527, Section 106.4
14 of the Water Code, Division 7 (commencing with Section 13000)
15 of the Water Code, and Part 12 (commencing with Section 116270)
16 of Division 104.

17 (i) For purposes of this section, “eligible agricultural employee
18 housing development” means an agricultural employee housing
19 development that satisfies all of the following:

20 (1) The agricultural employee housing does not contain
21 dormitory-style housing.

22 (2) The development consists of no more than 36 units or spaces
23 designed for use by a single family or household.

24 (3) (A) Except as otherwise provided in subparagraph (B), the
25 agricultural employee housing will be maintained and operated by
26 a qualified affordable housing organization that has been certified
27 pursuant to Section 17030.10. The development proponent shall
28 submit proof of issuance of the qualified affordable housing
29 organization’s certification by the enforcement agency. The
30 qualified affordable housing organization shall provide for onsite
31 management of the development.

32 (B) In the case of agricultural employee housing that is
33 maintained and operated by a local public housing agency or a
34 multicounty, state, or multistate agency that has been certified as
35 a qualified affordable housing organization as required by this
36 paragraph, that agency either directly maintains and operates the
37 agricultural employee housing or contracts with another qualified
38 affordable housing organization that has been certified pursuant
39 to Section 17030.10.

1 (C) The local government ensures an affordability covenant is
 2 recorded on the property to ensure the affordability of the proposed
 3 agricultural employee housing for agricultural employees for not
 4 less than 55 years. For purposes of this paragraph, “affordability”
 5 means the agricultural housing is made available at an affordable
 6 rent, as defined in Section 50053, to lower income households, as
 7 defined in Section 50079.5.

8 (4) The agricultural employee housing is not ineligible for state
 9 funding pursuant to paragraph (1) of subdivision (b) of Section
 10 50205.

11 (j) For purposes of this section, “agricultural employee housing”
 12 means employee housing for agricultural employees as both terms
 13 are defined in Sections 17008 and 17021, respectively.

14 (k) The Legislature hereby declares that it is the policy of this
 15 state that each county and city shall permit and encourage the
 16 development and use of sufficient numbers and types of agricultural
 17 employee housing as are commensurate with local need. The
 18 Legislature further finds and declares that this section addresses
 19 a matter of statewide concern rather than a municipal affair as that
 20 term is used in Section 5 of Article XI of the California
 21 Constitution. Therefore, this section applies to all cities, including
 22 charter cities.

23 SEC. 9. Chapter 6 (commencing with Section 25000) is added
 24 to Division 20 of the Health and Safety Code, to read:

25
 26 CHAPTER 6. THE ~~DOMINIC CORTESE “CORTESE LIST” ACT OF~~
 27 ~~2021~~ HAZARDOUS WASTE SITE CLEANUP AND SAFETY ACT

28
 29 25000. This chapter shall be known and may be cited as the
 30 ~~Dominic Cortese “Cortese List” Act of 2021.~~ *Hazardous Waste*
 31 *Site Cleanup and Safety Act.*

32 25001. (a) The Department of Toxic Substances Control shall
 33 compile and update as appropriate, but at least annually, and shall
 34 submit to the Secretary for Environmental Protection, a list of all
 35 of the following:

36 (1) All hazardous waste facilities subject to corrective action
 37 pursuant to Section 25187 or Section 25187.5.

38 (2) All land designated as hazardous waste property or border
 39 zone property pursuant to former Article 11 (commencing with
 40 Section 25220) of Chapter 6.5.

1 (3) All information received by the Department of Toxic
2 Substances Control pursuant to Section 25242 regarding hazardous
3 waste disposals on public land.

4 (4) All sites listed pursuant to Section 25356.

5 (b) The State Water Resources Control Board shall compile and
6 update as appropriate, but at least annually, and shall submit to
7 the Secretary for Environmental Protection, a list of all of the
8 following:

9 (1) All public drinking water wells that contain detectable levels
10 of organic contaminants and that are subject to water analysis
11 pursuant to Section 116395.

12 (2) All underground storage tanks for which an unauthorized
13 release report is filed pursuant to Section 25295.

14 (3) All solid waste disposal facilities from which there is a
15 migration of hazardous waste and for which a California regional
16 water quality control board has notified the Department of Toxic
17 Substances Control pursuant to subdivision (e) of Section 13273
18 of the Water Code.

19 (4) All cease and desist orders issued pursuant to Section 13301
20 of the Water Code and all cleanup or abatement orders issued
21 pursuant to Section 13304 of the Water Code that concern the
22 discharge of wastes that are hazardous materials.

23 (c) The local enforcement agency, as designated pursuant to
24 Section 18051 of Title 14 of the California Code of Regulations,
25 shall compile as appropriate, but at least annually, and shall submit
26 to the Department of Resources Recycling and Recovery, a list of
27 all solid waste disposal facilities from which there is a known
28 migration of hazardous waste. The Department of Resources
29 Recycling and Recovery shall compile the local lists into a
30 statewide list, which shall be submitted to the Secretary for
31 Environmental Protection and shall be available to any person who
32 requests the information.

33 (d) The Secretary for Environmental Protection shall consolidate
34 the information submitted under this section and post the
35 information on the California Environmental Protection Agency's
36 internet website. The secretary shall also distribute the information
37 in a timely fashion to each city and county in which sites on the
38 lists are located, as well as to any other person upon request. The
39 secretary may charge a reasonable fee to persons requesting the
40 information, other than cities, counties, or cities and counties, to

1 cover the cost of developing, maintaining, and reproducing and
2 distributing the information.

3 (e) Before a lead agency, as defined in Section 65929 of the
4 Government Code, accepts as complete an application for any
5 development project that will be used by any person, the applicant
6 shall consult the lists sent to the appropriate city or county and
7 shall submit a signed statement to the lead agency indicating
8 whether the project and any alternatives are located on a site that
9 is included on any of the lists compiled under this section and shall
10 specify the list or lists. If the site is included on a list, and the list
11 is not specified on the statement, the lead agency shall notify the
12 applicant pursuant to Section 65943 of the Government Code. The
13 statement shall read as follows:

14
15 HAZARDOUS WASTE AND SUBSTANCES STATEMENT

16
17 The development project and any alternatives proposed in this
18 application are included on the lists compiled pursuant to Section 25001
19 of the Health and Safety Code. Accordingly, the project applicant is
20 required to submit a signed statement that contains the following
21 information:

- 22
- 23 Name of project applicant:
- 24 Address:
- 25 Phone number:
- 26 Address of site (street name and number, if available, and ZIP Code):
- 27 Local agency (city/county):
- 28 Assessor’s book, page, and parcel number:
- 29 Specify the list(s) under Section 25001 of the Health and Safety Code:
- 30 Regulatory identification number(s):
- 31 Date of list(s):
- 32

33
34 _____
Applicant, Date

35
36 SEC. 10. Section 25220 of the Health and Safety Code is
37 amended to read:

38 25220. (a) The department shall notify the planning and
39 building department of each city, county, or regional council of
40 governments of any recorded land use restriction imposed within

1 the jurisdiction of the local agency pursuant to the former Section
2 25229, 25230, or 25398.7, as those sections read prior to the
3 effective date of this article, or Section 25202.5, 25221, or 25355.5.
4 Upon receiving this notification, the planning and building
5 department shall do both of the following:

6 (1) File all recorded land use restrictions in the property files
7 of the city, county, or regional council of government.

8 (2) Require that a person requesting a land use that differs from
9 those filed land use restrictions on the property apply to the
10 department for a variance or a removal of the land use restrictions
11 pursuant to Section 25223 or 25224.

12 (b) A planning and building department of a city, county, or
13 regional council of governments may assess a property owner a
14 reasonable fee to cover the costs of taking the actions required by
15 subdivision (a). For purposes of this subdivision, “property owner”
16 does not include a person who holds evidence of ownership solely
17 to protect a security interest in the property, unless the person
18 participates, or has a legal right to participate, in the management
19 of the property.

20 (c) The department shall maintain a list of all recorded land use
21 restrictions, including deed restrictions, recorded pursuant to the
22 former Sections 25229, 25230, and 25398.7, as those sections read
23 prior to the effective date of this article, and Sections 25202.5,
24 25221, and 25355.5. The list shall, at a minimum, provide the
25 street address, or, if a street address is not available, an equivalent
26 description of location for a rural location or the latitude and
27 longitude of each property. The department shall update the list
28 as new deed restrictions are recorded. The department shall make
29 the list available to the public, upon request, and shall make the
30 list available on the department’s internet website. The list shall
31 also be incorporated into the list of sites compiled pursuant to
32 Section 25001.

33 SEC. 11. Section 25395.117 of the Health and Safety Code is
34 amended to read:

35 25395.117. (a) On or before January 1, 2006, the agency and
36 the California Environmental Protection Agency shall implement
37 the requirements imposed by this section.

38 (b) The department shall revise and upgrade the department’s
39 database systems, including the list of hazardous substances release
40 sites designated pursuant to Section 25356 and the information

1 sent to the agency pursuant to Section 25001, to enable
2 compatibility with existing databases of the board, including the
3 GIS mapping system established pursuant to Section 25299.97.
4 The department shall also install improvements to the database
5 systems to maintain and display information that includes the
6 number of brownfield sites, each brownfield site's location,
7 acreage, response action, site assessments, and the number of
8 orphan sites where the department is overseeing the response
9 action.

10 (c) The California Environmental Protection Agency, the
11 department, the regional boards, and the board shall expand their
12 respective internet websites to allow access to information about
13 brownfield sites and other response action sites through a single
14 internet website portal.

15 SEC. 12. Section 21084 of the Public Resources Code is
16 amended to read:

17 21084. (a) The guidelines prepared and adopted pursuant to
18 Section 21083 shall include a list of classes of projects that have
19 been determined not to have a significant effect on the environment
20 and that shall be exempt from this division. In adopting the
21 guidelines, the Secretary of the Natural Resources Agency shall
22 make a finding that the listed classes of projects referred to in this
23 section do not have a significant effect on the environment.

24 (b) A project's greenhouse gas emissions shall not, in and of
25 themselves, be deemed to cause an exemption adopted pursuant
26 to subdivision (a) to be inapplicable if the project complies with
27 all applicable regulations or requirements adopted to implement
28 statewide, regional, or local plans consistent with Section 15183.5
29 of Title 14 of the California Code of Regulations.

30 (c) A project that may result in damage to scenic resources,
31 including, but not limited to, trees, historic buildings, rock
32 outcroppings, or similar resources, within a highway designated
33 as an official state scenic highway, pursuant to Article 2.5
34 (commencing with Section 260) of Chapter 2 of Division 1 of the
35 Streets and Highways Code, shall not be exempted from this
36 division pursuant to subdivision (a). This subdivision does not
37 apply to improvements as mitigation for a project for which a
38 negative declaration has been approved or an environmental impact
39 report has been certified.

1 (d) A project located on a site that is included on any list
2 compiled pursuant to Section 25001 of the Health and Safety Code
3 shall not be exempted from this division pursuant to subdivision
4 (a) or paragraph (3) of subdivision (b) of Section 15061 of Title
5 14 of the California Code of Regulations.

6 (e) A project that may cause a substantial adverse change in the
7 significance of a historical resource, as specified in Section
8 21084.1, shall not be exempted from this division pursuant to
9 subdivision (a).

10 SEC. 13. Section 21092.6 of the Public Resources Code is
11 amended to read:

12 21092.6. (a) The lead agency shall consult the lists compiled
13 pursuant to Section 25001 of the Health and Safety Code to
14 determine whether the project and any alternatives are located on
15 a site which is included on any list. The lead agency shall indicate
16 whether a site is on any list not already identified by the applicant.
17 The lead agency shall specify the list and include the information
18 in the statement required pursuant to subdivision (e) of Section
19 25001 of the Health and Safety Code in the notice required
20 pursuant to Section 21080.4, a negative declaration, and a draft
21 environmental impact report. The requirement in this section to
22 specify any list shall not be construed to limit compliance with
23 this division.

24 (b) If a project or any alternatives are located on a site which is
25 included on any of the lists compiled pursuant to Section 25001
26 of the Health and Safety Code and the lead agency did not
27 accurately specify or did not specify any list pursuant to subdivision
28 (a), the California Environmental Protection Agency shall notify
29 the lead agency specifying any list with the site when it receives
30 notice pursuant to Section 21080.4, a negative declaration, and a
31 draft environmental impact report. The California Environmental
32 Protection Agency shall not be liable for failure to notify the lead
33 agency under this subdivision.

34 SEC. 14. Section 21155.1 of the Public Resources Code is
35 amended to read:

36 21155.1. If the legislative body finds, after conducting a public
37 hearing, that a transit priority project meets all of the requirements
38 of subdivisions (a) and (b) and one of the requirements of
39 subdivision (c), the transit priority project is declared to be a

1 sustainable communities project and shall be exempt from this
2 division.

3 (a) The transit priority project complies with all of the following
4 environmental criteria:

5 (1) The transit priority project and other projects approved prior
6 to the approval of the transit priority project but not yet built can
7 be adequately served by existing utilities, and the transit priority
8 project applicant has paid, or has committed to pay, all applicable
9 in-lieu or development fees.

10 (2) (A) The site of the transit priority project does not contain
11 wetlands or riparian areas and does not have significant value as
12 a wildlife habitat, and the transit priority project does not harm
13 any species protected by the federal Endangered Species Act of
14 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection
15 Act (Chapter 10 (commencing with Section 1900) of Division 2
16 of the Fish and Game Code), or the California Endangered Species
17 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
18 of the Fish and Game Code), and the project does not cause the
19 destruction or removal of any species protected by a local ordinance
20 in effect at the time the application for the project was deemed
21 complete.

22 (B) For purposes of this paragraph, “wetlands” has the same
23 meaning as in the United States Fish and Wildlife Service Manual,
24 Part 660 FW 2 (June 21, 1993).

25 (C) For purposes of this paragraph:

26 (i) “Riparian areas” means those areas transitional between
27 terrestrial and aquatic ecosystems and that are distinguished by
28 gradients in biophysical conditions, ecological processes, and biota.
29 A riparian area is an area through which surface and subsurface
30 hydrology connect waterbodies with their adjacent uplands. A
31 riparian area includes those portions of terrestrial ecosystems that
32 significantly influence exchanges of energy and matter with aquatic
33 ecosystems. A riparian area is adjacent to perennial, intermittent,
34 and ephemeral streams, lakes, and estuarine-marine shorelines.

35 (ii) “Wildlife habitat” means the ecological communities upon
36 which wild animals, birds, plants, fish, amphibians, and
37 invertebrates depend for their conservation and protection.

38 (iii) Habitat of “significant value” includes wildlife habitat of
39 national, statewide, regional, or local importance; habitat for
40 species protected by the federal Endangered Species Act of 1973

1 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species
2 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
3 of the Fish and Game Code), or the Native Plant Protection Act
4 (Chapter 10 (commencing with Section 1900) of Division 2 of the
5 Fish and Game Code); habitat identified as candidate, fully
6 protected, sensitive, or species of special status by local, state, or
7 federal agencies; or habitat essential to the movement of resident
8 or migratory wildlife.

9 (3) The site of the transit priority project is not included on any
10 list of facilities and sites compiled pursuant to Section 25001 of
11 the Health and Safety Code.

12 (4) The site of the transit priority project is subject to a
13 preliminary endangerment assessment prepared by an
14 environmental assessor to determine the existence of any release
15 of a hazardous substance on the site and to determine the potential
16 for exposure of future occupants to significant health hazards from
17 any nearby property or activity.

18 (A) If a release of a hazardous substance is found to exist on
19 the site, the release shall be removed or any significant effects of
20 the release shall be mitigated to a level of insignificance in
21 compliance with state and federal requirements.

22 (B) If a potential for exposure to significant hazards from
23 surrounding properties or activities is found to exist, the effects of
24 the potential exposure shall be mitigated to a level of insignificance
25 in compliance with state and federal requirements.

26 (5) The transit priority project does not have a significant effect
27 on historical resources pursuant to Section 21084.1.

28 (6) The transit priority project site is not subject to any of the
29 following:

30 (A) A wildland fire hazard, as determined by the Department
31 of Forestry and Fire Protection, unless the applicable general plan
32 or zoning ordinance contains provisions to mitigate the risk of a
33 wildland fire hazard.

34 (B) An unusually high risk of fire or explosion from materials
35 stored or used on nearby properties.

36 (C) Risk of a public health exposure at a level that would exceed
37 the standards established by any state or federal agency.

38 (D) Seismic risk as a result of being within a delineated
39 earthquake fault zone, as determined pursuant to Section 2622, or
40 a seismic hazard zone, as determined pursuant to Section 2696,

1 unless the applicable general plan or zoning ordinance contains
2 provisions to mitigate the risk of an earthquake fault or seismic
3 hazard zone.

4 (E) Landslide hazard, flood plain, flood way, or restriction zone,
5 unless the applicable general plan or zoning ordinance contains
6 provisions to mitigate the risk of a landslide or flood.

7 (7) The transit priority project site is not located on developed
8 open space.

9 (A) For purposes of this paragraph, “developed open space”
10 means land that meets all of the following criteria:

11 (i) Is publicly owned, or financed in whole or in part by public
12 funds.

13 (ii) Is generally open to, and available for use by, the public.

14 (iii) Is predominantly lacking in structural development other
15 than structures associated with open spaces, including, but not
16 limited to, playgrounds, swimming pools, ballfields, enclosed child
17 play areas, and picnic facilities.

18 (B) For purposes of this paragraph, “developed open space”
19 includes land that has been designated for acquisition by a public
20 agency for developed open space, but does not include lands
21 acquired with public funds dedicated to the acquisition of land for
22 housing purposes.

23 (8) The buildings in the transit priority project are 15 percent
24 more energy efficient than required by Chapter 6 of Title 24 of the
25 California Code of Regulations and the buildings and landscaping
26 are designed to achieve 25 percent less water usage than the
27 average household use in the region.

28 (b) The transit priority project meets all of the following land
29 use criteria:

30 (1) The site of the transit priority project is not more than eight
31 acres in total area.

32 (2) The transit priority project does not contain more than 200
33 residential units.

34 (3) The transit priority project does not result in any net loss in
35 the number of affordable housing units within the project area.

36 (4) The transit priority project does not include any single level
37 building that exceeds 75,000 square feet.

38 (5) Any applicable mitigation measures or performance
39 standards or criteria set forth in the prior environmental impact

1 reports, and adopted in findings, have been or will be incorporated
2 into the transit priority project.

3 (6) The transit priority project is determined not to conflict with
4 nearby operating industrial uses.

5 (7) The transit priority project is located within one-half mile
6 of a rail transit station or a ferry terminal included in a regional
7 transportation plan or within one-quarter mile of a high-quality
8 transit corridor included in a regional transportation plan.

9 (c) The transit priority project meets at least one of the following
10 three criteria:

11 (1) The transit priority project meets both of the following:

12 (A) At least 20 percent of the housing will be sold to families
13 of moderate income, or not less than 10 percent of the housing
14 will be rented to families of low income, or not less than 5 percent
15 of the housing is rented to families of very low income.

16 (B) The transit priority project developer provides sufficient
17 legal commitments to the appropriate local agency to ensure the
18 continued availability and use of the housing units for very low,
19 low-, and moderate-income households at monthly housing costs
20 with an affordable housing cost or affordable rent, as defined in
21 Section 50052.5 or 50053 of the Health and Safety Code,
22 respectively, for the period required by the applicable financing.
23 Rental units shall be affordable for at least 55 years. Ownership
24 units shall be subject to resale restrictions or equity sharing
25 requirements for at least 30 years.

26 (2) The transit priority project developer has paid or will pay
27 in-lieu fees pursuant to a local ordinance in an amount sufficient
28 to result in the development of an equivalent number of units that
29 would otherwise be required pursuant to paragraph (1).

30 (3) The transit priority project provides public open space equal
31 to or greater than five acres per 1,000 residents of the project.

32 SEC. 15. Section 21159.21 of the Public Resources Code is
33 amended to read:

34 21159.21. A housing project qualifies for an exemption from
35 this division pursuant to Section 21159.22, 21159.23, or 21159.24
36 if it meets the criteria in the applicable section and all of the
37 following criteria:

38 (a) The project is consistent with any applicable general plan,
39 specific plan, and local coastal program, including any mitigation
40 measures required by a plan or program, as that plan or program

1 existed on the date that the application was deemed complete and
2 with any applicable zoning ordinance, as that zoning ordinance
3 existed on the date that the application was deemed complete,
4 except that a project shall not be deemed to be inconsistent with
5 the zoning designation for the site if that zoning designation is
6 inconsistent with the general plan only because the project site has
7 not been rezoned to conform with a more recently adopted general
8 plan.

9 (b) Community-level environmental review has been adopted
10 or certified.

11 (c) The project and other projects approved prior to the approval
12 of the project can be adequately served by existing utilities, and
13 the project applicant has paid, or has committed to pay, all
14 applicable in-lieu or development fees.

15 (d) The site of the project does not contain wetlands, does not
16 have any value as a wildlife habitat, and the project does not harm
17 any species protected by the federal Endangered Species Act of
18 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection
19 Act (Chapter 10 (commencing with Section 1900) of Division 2
20 of the Fish and Game Code), the California Endangered Species
21 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
22 of the Fish and Game Code), and the project does not cause the
23 destruction or removal of any species protected by a local ordinance
24 in effect at the time the application for the project was deemed
25 complete. For purposes of this subdivision, “wetlands” has the
26 same meaning as in Section 328.3 of Title 33 of the Code of
27 Federal Regulations and “wildlife habitat” means the ecological
28 communities upon which wild animals, birds, plants, fish,
29 amphibians, and invertebrates depend for their conservation and
30 protection.

31 (e) The site of the project is not included on any list of facilities
32 and sites compiled pursuant to Section 25001 of the Health and
33 Safety Code.

34 (f) The site of the project is subject to a preliminary
35 endangerment assessment prepared by an environmental assessor
36 to determine the existence of any release of a hazardous substance
37 on the site and to determine the potential for exposure of future
38 occupants to significant health hazards from any nearby property
39 or activity.

1 (1) If a release of a hazardous substance is found to exist on the
2 site, the release shall be removed, or any significant effects of the
3 release shall be mitigated to a level of insignificance in compliance
4 with state and federal requirements.

5 (2) If a potential for exposure to significant hazards from
6 surrounding properties or activities is found to exist, the effects of
7 the potential exposure shall be mitigated to a level of insignificance
8 in compliance with state and federal requirements.

9 (g) The project does not have a significant effect on historical
10 resources pursuant to Section 21084.1.

11 (h) The project site is not subject to any of the following:

12 (1) A wildland fire hazard, as determined by the Department of
13 Forestry and Fire Protection, unless the applicable general plan or
14 zoning ordinance contains provisions to mitigate the risk of a
15 wildland fire hazard.

16 (2) An unusually high risk of fire or explosion from materials
17 stored or used on nearby properties.

18 (3) Risk of a public health exposure at a level that would exceed
19 the standards established by any state or federal agency.

20 (4) Within a delineated earthquake fault zone, as determined
21 pursuant to Section 2622, or a seismic hazard zone, as determined
22 pursuant to Section 2696, unless the applicable general plan or
23 zoning ordinance contains provisions to mitigate the risk of an
24 earthquake fault or seismic hazard zone.

25 (5) Landslide hazard, flood plain, flood way, or restriction zone,
26 unless the applicable general plan or zoning ordinance contains
27 provisions to mitigate the risk of a landslide or flood.

28 (i) (1) The project site is not located on developed open space.

29 (2) For purposes of this subdivision, “developed open space”
30 means land that meets all of the following criteria:

31 (A) Is publicly owned, or financed in whole or in part by public
32 funds.

33 (B) Is generally open to, and available for use by, the public.

34 (C) Is predominantly lacking in structural development other
35 than structures associated with open spaces, including, but not
36 limited to, playgrounds, swimming pools, ballfields, enclosed child
37 play areas, and picnic facilities.

38 (3) For purposes of this subdivision, “developed open space”
39 includes land that has been designated for acquisition by a public
40 agency for developed open space, but does not include lands

1 acquired by public funds dedicated to the acquisition of land for
2 housing purposes.

3 (j) The project site is not located within the boundaries of a state
4 conservancy.

5 SEC. 16. Section 21159.25 of the Public Resources Code is
6 amended to read:

7 21159.25. (a) For purposes of this section, the following
8 definitions apply:

9 (1) “Residential or mixed-use housing project” means a project
10 consisting of multifamily residential uses only or a mix of
11 multifamily residential and nonresidential uses, with at least
12 two-thirds of the square footage of the development designated
13 for residential use.

14 (2) “Substantially surrounded” means at least 75 percent of the
15 perimeter of the project site adjoins, or is separated only by an
16 improved public right-of-way from, parcels that are developed
17 with qualified urban uses. The remainder of the perimeter of the
18 site adjoins, or is separated only by an improved public
19 right-of-way from, parcels that have been designated for qualified
20 urban uses in a zoning, community plan, or general plan for which
21 an environmental impact report was certified.

22 (b) Without limiting any other statutory exemption or categorical
23 exemption, this division does not apply to a residential or
24 mixed-use housing project if all of the following conditions
25 described in this section are met:

26 (1) The project is consistent with the applicable general plan
27 designation and all applicable general plan policies as well as with
28 applicable zoning designation and regulations.

29 (2) (A) The public agency approving or carrying out the project
30 determines, based upon substantial evidence, that the density of
31 the residential portion of the project is not less than the greater of
32 the following:

33 (i) The average density of the residential properties that adjoin,
34 or are separated only by an improved public right-of-way from,
35 the perimeter of the project site, if any.

36 (ii) The average density of the residential properties within
37 1,500 feet of the project site.

38 (iii) Six dwelling units per acre.

39 (B) The residential portion of the project is a multifamily
40 housing development that contains six or more residential units.

1 (3) The proposed development occurs within an unincorporated
2 area of a county on a project site of no more than five acres
3 substantially surrounded by qualified urban uses.

4 (4) The project site has no value as habitat for endangered, rare,
5 or threatened species.

6 (5) Approval of the project would not result in any significant
7 effects relating to transportation, noise, air quality, greenhouse gas
8 emissions, or water quality.

9 (6) The site can be adequately served by all required utilities
10 and public services.

11 (7) The project is located on a site that is a legal parcel or parcels
12 wholly within the boundaries of an urbanized area or urban cluster,
13 as designated by the United States Census Bureau.

14 (c) Subdivision (b) does not apply to a residential or mixed-use
15 housing project if any of the following conditions exist:

16 (1) The cumulative impact of successive projects of the same
17 type in the same place over time is significant.

18 (2) There is a reasonable possibility that the project will have
19 a significant effect on the environment due to unusual
20 circumstances.

21 (3) The project may result in damage to scenic resources,
22 including, but not limited to, trees, historic buildings, rock
23 outcroppings, or similar resources, within a highway officially
24 designated as a state scenic highway.

25 (4) The project is located on a site which is included on any list
26 compiled pursuant to Section 25001 of the Health and Safety Code.

27 (5) The project may cause a substantial adverse change in the
28 significance of a historical resource.

29 (d) If the lead agency determines that a project is not subject to
30 this division under this section and it determines to approve or
31 carry out the project, the lead agency shall file a notice with the
32 Office of Planning and Research and with the county clerk in the
33 county in which the project will be located in the manner specified
34 in subdivisions (b) and (c) of Section 21152.

35 (e) This section shall remain in effect only until January 1, 2025,
36 and as of that date is repealed.

O



California Senate Bill 37: Effects on Small Projects & Housing in San Francisco

INFORMATIONAL PRESENTATION



San Francisco
Planning

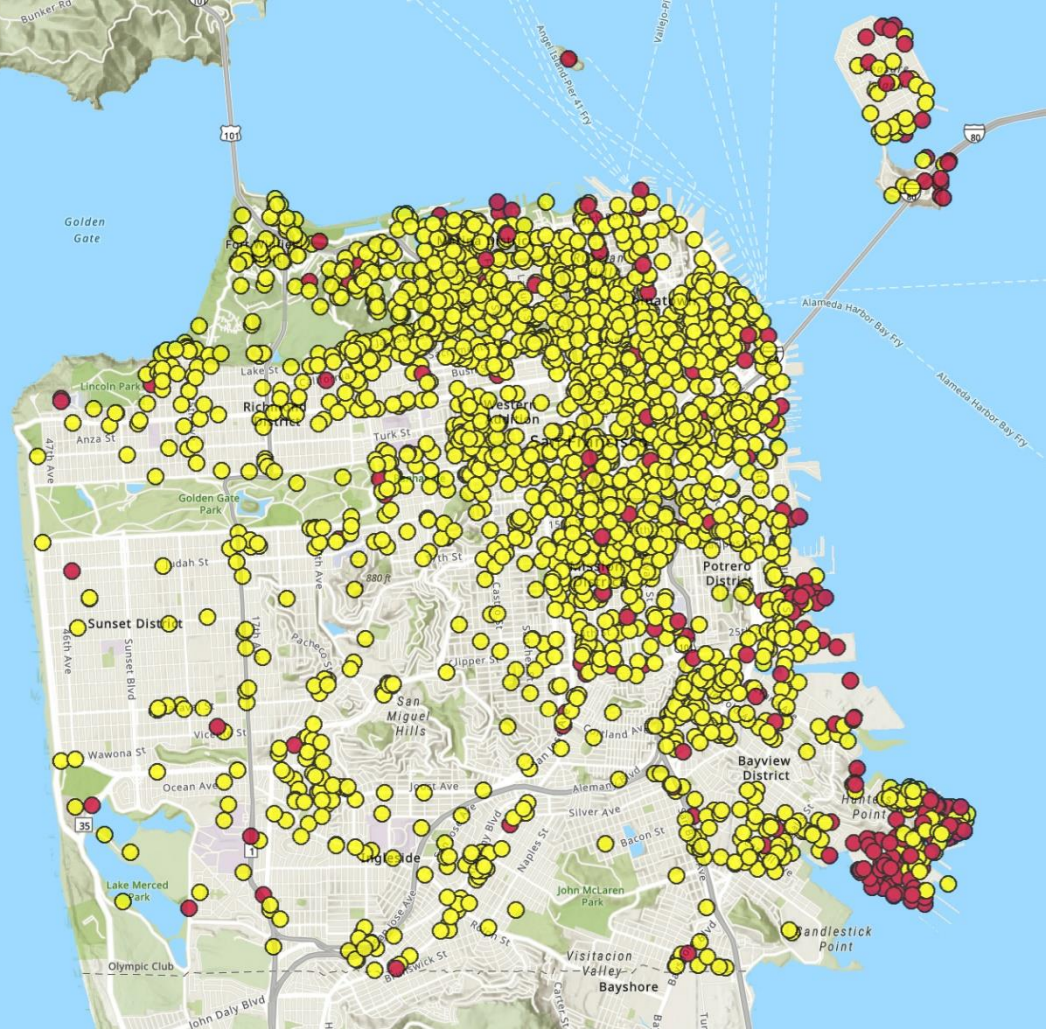
Lisa Gibson
Environmental Review
Officer

May 3, 2021

Cortese Sites

AS OF APRIL 2021

- **>2,300 Cortese sites**
- **>90% are closed cases (yellow)**
- **2,000+ are former heating oil tanks**
- **All overseen by SFDPH or state agencies**



What SB 37 would mean in San Francisco

**Prohibition of using
"common sense"
for small projects
with clearly no
potential harm to
environment**

**More bureaucracy
= time + \$\$\$**

Even for small home
renovations and
tenant improvements

**NO
Environmental
Benefits**



More Bureaucracy, No Environmental Benefits

**Ignores cities like SF
that already require
full remediation**



**No common sense
even for already
cleaned sites and
proposals with no
soil disturbance**

**No significant impact
projects would take
longer and cost more**

CURRENTLY:

1-90 days and \$380+ fee for
common sense exemption

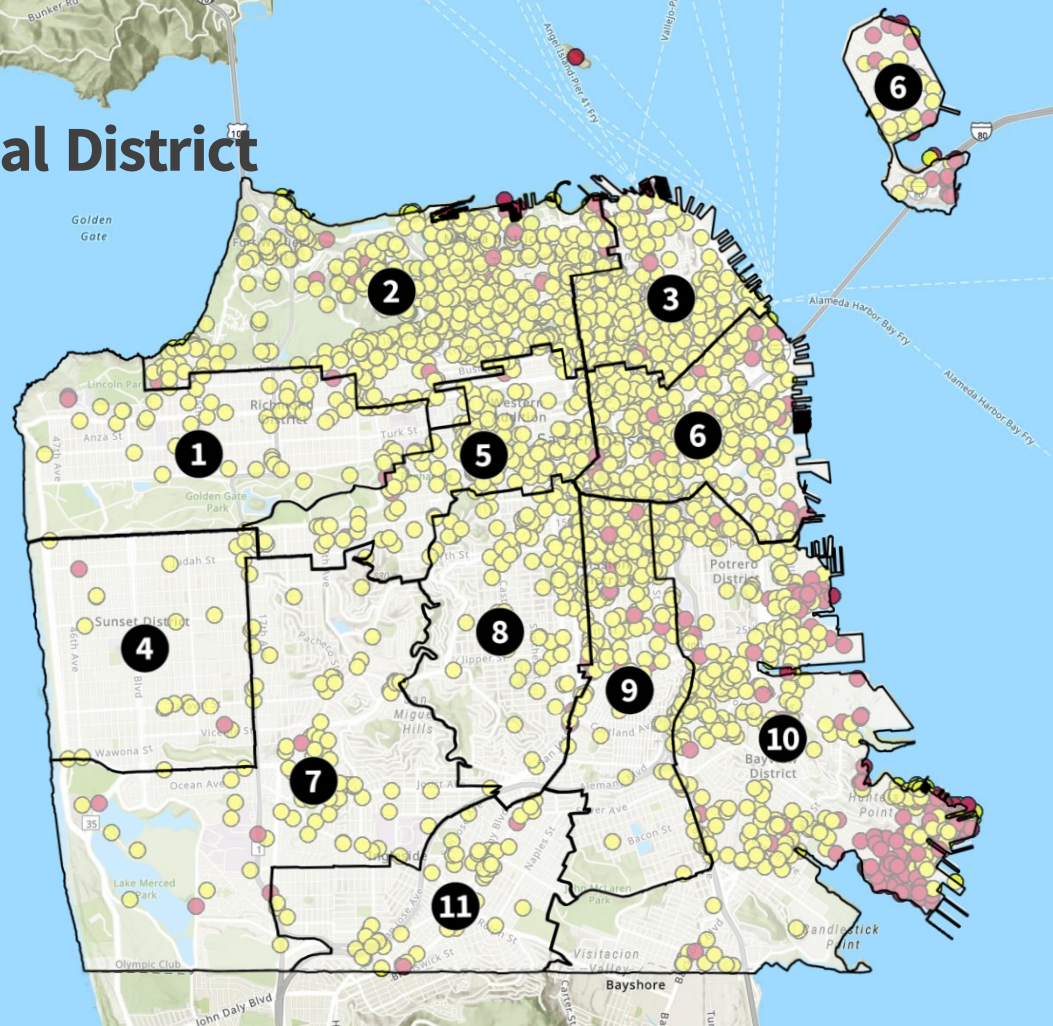
PROPOSED:

6-12 months and \$29,800 –
\$100,00+ fee for negative
declaration

Cortese Cases by Supervisorial District

AS OF APRIL 2021

- District 1 (Chan): **82**
- District 2 (Stefani): **703**
- District 3 (Peskin): **313**
- District 4 (Mar): **27**
- District 5 (Preston): **182**
- District 6 (Haney): **459**
- District 7 (Melgar): **99**
- District 8 (Mandelman): **123**
- District 9 (Ronen): **182**
- District 10 (Walton): **530**
- District 11 (Safai): **58**



Implications for Small Housing and Tenant Improvement Projects



Extensive CEQA review for:

- ADUs
- Window/roof replacements
- Mechanical repairs
- Tenant improvements
- All projects on cleaned Cortese sites

Proposed Amendments to SB 37

SEC. 12. Section 21084 (d) of the Public Resources Code is proposed to read:

(d) A project located on a site that is included on any list compiled pursuant to Section ~~65962.5~~ 25001 of the ~~Government~~ *Health and Safety* Code shall not be exempted from this division pursuant to subdivision ~~(a)~~. *(a) or paragraph (3) of subdivision (b) of Section 15061 of Title 14 of the California Code of Regulations*-, *except in any of the following circumstances:*

*(1) The project involves **no soil excavation**;*

*(2) The project's status in the list compiled pursuant to Section 25001 of the Health and Safety Code is **closed**, has **no further action required**, or the **equivalent**, and the project **does not include a change of use**;*

*(3) The project is subject to **local remediation requirements** pursuant to standards that are as protective of, or exceed, the public health and safety standards applicable for the proposed use by the Department of Toxic Substances Control or the Regional Water Quality Control Board; or*

*(4) The State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has **cleared the site for the proposed use**.*



Thank you



San Francisco
Planning

Lisa Gibson
Environmental Review Officer
Lisa.Gibson@sfgov.org

www.sfplanning.org

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Nagasundaram, Sekhar \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [Major, Erica \(BOS\)](#)
Subject: FW: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act (BOS File 210353)
Date: Friday, April 30, 2021 10:11:06 AM
Attachments: [Support SB-37.pdf](#)

From: D4ward SF <d4wardsf@gmail.com>

Sent: Thursday, April 29, 2021 8:50 PM

To: Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; ChanStaff (BOS) <chanstaff@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; MelgarStaff (BOS) <melgarstaff@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>

Subject: Re: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act (BOS File 210353)

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Sunset Rises to Action
www.facebook.com/D4wardSF
D4wardSF@gmail.com

April 29, 2021

Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, Ca 94102-4689

Re: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act (BOS File 210353)

Honorable Members of the Board of Supervisors:

We urge the Board of Supervisors to pass the resolution supporting State Senate bill SB-37. . This legislation would prevent cities from granting CEQA exemptions to projects proposed to be

constructed on contaminated sites, known as Cortese List sites.

In 2020 Senator Cortese (son of the author of the original legislation) learned from a San Francisco Chronicle article that the City of San Francisco has granted numerous CEQA exemptions over many years for projects to be constructed on Cortese List sites; this practice is in direct violation of existing law. More than that, it presents a danger to the public from toxic substances.

SB-37 ensures that San Francisco, and any other cities, must cease this illegal practice going forward. SB-37 would further clarify that if a project is proposed to be constructed on a contaminated Cortese List site, neither a categorical exemption nor a "common sense" exemption may be used to avoid CEQA review.

We strongly urge the Board of Supervisors to pass a resolution in support of SB-37 in the interest of safeguarding public health and protecting the environment.

Sincerely,
D4ward



Sunset Rises to Action
www.facebook.com/D4wardSF
D4wardSF@gmail.com

April 29, 2021

Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, Ca 94102-4689

Re: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act
(BOS File 210353)

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We strongly urge the Board of Supervisors to pass a resolution in support of SB-37 in the interest of safeguarding public health and protecting the environment.

Sincerely,
D4ward

From: [Board of Supervisors, \(BOS\)](#)
To: [Major, Erica \(BOS\)](#)
Subject: FW: Please vote 'yes' on the Resolution to support SB 37
Date: Monday, May 3, 2021 12:10:39 PM

From: Bruce Bowen <bruce.r.bowen@gmail.com>
Sent: Monday, May 3, 2021 11:56 AM
To: ChanStaff (BOS) <chanstaff@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; MelgarStaff (BOS) <melgarstaff@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Please vote 'yes' on the Resolution to support SB 37

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Members of the Board of Supervisors:

I am writing to urge you to pass the resolution in support of SB 37, sponsored by Supervisor Mar and others, in order to help safeguard public health and protect the environment.

Thank you
Bruce Bowen
District 8
Dolores Heights

From: [Board of Supervisors, \(BOS\)](#)
To: [Major, Erica \(BOS\)](#)
Subject: FW: I support Supervisor Mar's resolution in support of SB-37 File No. 210353
Date: Monday, May 3, 2021 10:48:59 AM

From: Jerry Dratler <dratlerj@gmail.com>
Sent: Monday, May 3, 2021 6:46 AM
To: ChanStaff (BOS) <ChanStaff@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; MelgarStaff (BOS) <MelgarStaff@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: I support Supervisor Mar's resolution in support of SB-37

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I urge the Board of Supervisors to pass Supervisor Mar's resolution in support of SB-37 which would eliminate San Francisco's current practice of granting CEQA exemptions to development projects on contaminated building sites (Cortese list sites).

I remember learning about Cortese list sites after reading a SF Chronicle article on the development of housing on 12 contaminated former gas stations sites, a direct violation of the existing law. Please stop this practice.

Please support this important resolution.
Jerry Dratler

From: [George Wooding](#)
To: [Lovett, Li \(BOS\)](#); Gordon.Mar@sfgov.com; [Geroge Wooding](#); [Major, Erica \(BOS\)](#); [Melgar, Myrna \(BOS\)](#); [Preston, Dean \(BOS\)](#)
Subject: Please support SB-37
Date: Sunday, May 2, 2021 10:58:12 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

April 2, 2021

Testimony for the May 3 Land Use & Transportation Committee,

Re: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act

Dear Supervisors

The Hazardous Waste Site Cleanup and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of the “common sense” exemption to be applied to construction projects located on contaminated sites identified on the state’s Cortese List.

California Environmental Quality Act (CEQA) projects proposed to be constructed on these sites may not be exempted from CEQA review. This ensures that the public is informed of contamination and can ensure through CEQA review that contamination is properly remediated prior to project construction.

Shame... on the City for overriding the Cortese Act and endangering citizens. The City of San Francisco has granted numerous CEQA exemptions over many years for projects to be constructed on Cortese List sites; this practice is in direct violation of existing law.

The “common sense” CEQA exemption has been repeatedly violated by San Francisco to abuse CEQA..

Shame... on San Francisco’s Maher project for being repeatedly misused to skirt CEQA.

Please support SB-37

Respectfully,

George Wooding
415 695-1393



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
richard@lozeaudrury.com

BY E-MAIL AND US MAIL

April 26, 2021

President Shamann Walton and
Honorable Members of the Board of Supervisors
c/o Angela Cavillo, Clerk of the Board of Supervisors
San Francisco City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Bos.legislation@sfgov.org

**RE: Support of PODER, Greenaction and THoR for Resolution to Support SB 37
(Cortese) Contaminated Site Cleanup and Safety Act (File No. 210353).**

President Walton and Honorable Members of the Board of Supervisors:

I am writing on behalf of People Organizing to Demand Environmental and Economic Rights (PODER), Greenaction for Health and Environmental Justice (Greenaction), and THoR, a group of residents living near a contaminated site located at 1776 Green Street], to support the adoption of the proposed resolution to support California State Senate Bill SB 37 (Cortese) Contaminated Site Cleanup and Safety Act ("SB 37"). The California Environmental Quality Act ("CEQA") provides that when a project is proposed to be built on a contaminated site listed on the State's Cortese List, it may not be exempted from CEQA review.¹ This ensures that the public, neighbors, construction workers and others can review and comment on the cleanup plan to ensure its adequacy. SB 37 is sponsored by the Laborers International Union of North America (LIUNA) in order to ensure the health and safety of their members who are often involved in excavation and earth moving activities. (Exhibit A).

SB 37 will close a loophole that has been improperly exploited by the San Francisco Planning Department to allow projects built on contaminated sites to evade CEQA review. SB 37 will help to safeguard public health and safety by ensuring that contaminated sites are properly cleaned up before development projects are allowed to proceed. The Planning Department has been aggressively lobbying against SB 37, claiming that it would cause delays and additional cost, and making false claims about how the bill would apply to certain projects, namely "ministerial" projects. As described below, any delays, additional cost or impact on the types of projects that would be subject to CEQA review would be immaterial or nonexistent, and certainly not justify the risk to public health and safety by avoiding CEQA review.

SB 37 was prompted by an investigative article in the *San Francisco Chronicle* revealing that the San Francisco Planning Department had a multi-year practice of illegally granting CEQA categorical exemptions for projects constructed on contaminated sites listed on the State's Cortese List. (Exhibit B). As a result, residences have been constructed on contaminated sites without the safeguards and public involvement required by CEQA.

¹ CEQA section 21084(d).

Subsequent to the *Chronicle* article, the Planning Department has admitted that its illegal practice of issuing categorical CEQA exemptions for projects on contaminated sites was “regrettable.” However, the Department now contends that it may issue “common-sense” exemptions for these same projects. By advocating for the ability to grant common-sense exemptions for Cortese List sites, the Planning Department is in fact undermining the City’s responsibility to promote and protect public health.

CEQA is unambiguous that common-sense exemptions can only be applied to projects “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”² Allowing common-sense exemptions for Cortese List sites means that contaminated sites would be allowed to be developed with absolutely no public review under CEQA. Clearly, if a site is contaminated with toxic chemicals, it cannot be seen “with certainty” that there is “no possibility” of a significant environmental effect. Indeed, the courts of appeal have ruled that the common-sense exemption is not allowed for projects on contaminated sites.³ **SB 37 would help clarify existing law that projects proposed to be constructed on contaminated sites may not be exempted from CEQA review, regardless of whether the exemption is deemed “categorical” or “common-sense.”**

The Planning Department has raised several specious arguments against SB 37. As discussed below, none have merit.

1. Local cleanup programs: The Planning Department argues that its local cleanup program, known as the Maher Ordinance, ensures adequate cleanup and that CEQA review would be redundant. This is demonstrably false, and one need only to consider the tragic public health disasters caused by the botched cleanups at Hunters Point, Treasure Island and elsewhere. City staff is clearly **not** ensuring adequate cleanup of contaminated sites through the Maher program, and these are prime examples of how a local oversight program doesn’t equate to “certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Furthermore, the Maher Ordinance, unlike CEQA review, does not require a meaningful public comment period, response to comments, and administrative and judicial appeals. In a recent project at 1776 Green Street, the Department of Public Health proposed to “close” the site on the Cortese List, despite the presence of cancer-causing benzene at levels more than 200 times in excess of commercial standards and 900 times greater than residential standards. It was only as a result of public involvement and a CEQA appeal that the public was able to reverse the City staff’s erroneous decision and ensure an adequate cleanup.
2. Delay: The Planning Department has argued that requiring CEQA review for projects on contaminated sites will lead to unreasonable delays. However, CEQA review most often takes the form of a mitigated negative declaration (“MND”).⁴ MND’s are brief checklist documents and have a short 20-day comment period. A 20-day period to allow affected members of the public to review and comment on the cleanup plan to ensure its adequacy is not unreasonable and in fact, is easily justifiable when public health and safety are potentially at stake.

² 14 CCR 15061(b)((3)

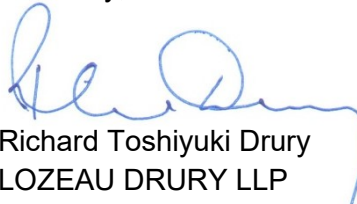
³ *McQueen v. Bd. of Directors*, 202 Cal.App.3d 1136, 1149 (1988); *Citizens for Responsible Equitable Env’tl Dev. v. City of Chula Vista (“CREED”)* 197 Cal.App.4th 327, 331-333 (2011).

⁴ *Parker Shattuck Neighbors v. Berkeley City Council*, 222 Cal. App. 4th 768 (2013)).

3. Cost: The Planning Department has argued that CEQA review will impose significant additional costs on developers that may have a “chilling effect.” However, CEQA imposes almost no additional cost. As the staff contends, a cleanup plan is already required under the Maher Ordinance. Therefore, the cost to develop the cleanup plan is necessary whether or not CEQA review is required. The only difference is that CEQA requires that the cleanup plan be presented to the public for a 20-day comment period. This affects only timing, not cost.
4. Red tape: Planning staff has argued that SB 37 will require that “every window replacement” and kitchen remodel will require CEQA review. This argument is completely invalid. CEQA only applies to “discretionary” projects, not “ministerial” projects⁵ and clearly defines building permits to be “ministerial.”⁶ Therefore, permits for window replacements, interior remodeling, deck repairs, etc., are entirely excluded from any CEQA review. Furthermore, the courts have held that projects that do not involve soil disturbance may be exempted from CEQA review.⁷

In summary, SB 37 would help clarify existing law regarding contaminated site cleanup and safety and is necessary to close a loophole that has been improperly exploited by the San Francisco Planning Department to allow Cortese List sites to evade necessary CEQA review. SB 37 will help to safeguard the health of nearby neighbors, construction workers and future residents by ensuring that contaminated sites are properly cleaned up before development of public and private projects are placed on those sites. Any delay or additional cost would be immaterial and certainly not justify the risk to public health by avoiding CEQA review. Thank you for your consideration of our comments and concerns.

Sincerely,



Richard Toshiyuki Drury
LOZEAU DRURY LLP

Cc: President Shamann Walton (Shamann.Walton@sfgov.org)
Sup. Catherine Stefani (Catherine.Stefani@sfgov.org)
Sup. Aaron Peskin (Aaron.Peskin@sfgov.org)
Sup. Matt Haney (Matt.Haney@sfgov.org)
Sup. Rafael Mandelman (MandelmanStaff@sfgov.org)
Sup. Gordon Mar (Gordon.Mar@sfgov.org)
Sup. Dean Preston (Dean.Preston@sfgov.org)
Sup. Hillary Ronen (Hillary.Ronen@sfgov.org)
Sup. Ahsha Safai (Ahsha.Safai@sfgov.org)
Sup. Myrna Melgar (MelgarStaff@sfgov.org)
Sup. Connie Chan (ChanStaff@sfgov.org)

⁵ CEQA section 21080(b)(1).

⁶ CEQA Guidelines section 15268(b)(1).

⁷ *Baird v. Contra Costa Co.*, 32 Cal.App.4th 1464 (1995).

EXHIBIT A



Laborers'
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April 7, 20211

President Shamann Walton and
San Francisco Board of Supervisors
Attn: Sup. Gordon Mar
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

RE: Resolution Supporting SB 37—Contaminated Sites: The Hazardous Waste Site Clean Up and Safety Act Cortese.

Dear President Shamann Walton and San Francisco Board of Supervisors:

On behalf of the California State Council of Laborers, I write in strong SUPPORT of the San Francisco Board of Supervisors Resolution supporting Senate Bill 37.

Senate Bill 37 would expressly provide that a project that is included on a consolidated list created, distributed, and posted online by the Secretary for Environmental Protection shall also not be exempt from CEQA.

Construction workers are exposed to a variety of health hazards every day. Without proper knowledge and protective gear these men and women have the potential for becoming sick, ill, and disabled for life.

Soil and groundwater can become contaminated as a result of past or current activities on the project site or on adjacent areas. Many industrial activities use, store, or generate contaminated materials that can be spilled, dumped, or buried nearby. Other activities common in mixed-use neighborhoods—such as gas stations and auto repair shops—can also result in contamination due to improper management of raw product and/or waste materials, or inadvertent spills.

Subsurface soil and groundwater contamination may remain undetected for many years, without posing a threat to nearby workers, residents, passersby, or other receptors. Excavation, earthmoving, dewatering, and other construction activities can, however, expose the contaminants, provide a pathway of exposure and, if such contaminants are not properly managed, introduce potential risk to construction workers and others nearby.

Senate Bill 37 addresses an increasingly common problem where localities exempt highly contaminated sites entirely from CEQA review. The result is that construction workers and future residents may be exposed to highly toxic chemicals without their knowledge and without proper safeguards.

Unfortunately, most serious hazards on a construction site are the silent killers, the ones we cannot see. Senate Bill 37 will close a loophole in state law and help to ensure that construction workers are not unwittingly exposed to toxic chemicals in soil and groundwater, and that safeguards are put in place to ensure that workers and future residents are made aware of historic soil contamination from leaking underground tanks and other sources so that proper measures can be imposed to clean-up the contamination safely.

For these reasons, the Laborers are in strong support of this important legislation and respectfully request the San Francisco Board of Supervisors approve the Resolution in support of Senate Bill 37.

Sincerely,



Joseph Cruz
Executive Director

cc: Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager

EXHIBIT B

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LOCAL // [BAY AREA & STATE](#)

Exclusive: How SF sidestepped state law on developing toxic sites

Cynthia Dizikes

June 7, 2020 | Updated: June 7, 2020 1:03 p.m.



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Ben Ellis and daughter Emmy, 8, throw a football outside their house in San Francisco last year. They live across the street from a former auto repair garage that is on a state list of hazardous waste sites. Despite that status, the city planning department considered exempting a development on the site from the state's environmental review ...

Photo: Gabrielle Lurie / The Chronicle

Contaminated gas stations, [vehicle repair](#) shops and parking garages have become prized development commodities in San Francisco in recent years as the city struggles with a crushing housing shortage.

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bypass environmental reviews required under state law, a Chronicle investigation has found.

The California Environmental Quality Act prohibits certain exemptions for the tens of thousands of properties on a statewide roster of hazardous-waste sites called the Cortese list. “Categorical” exemptions are only supposed to go to projects with no significant impact on the environment or human health. The prohibition was designed to protect the public, construction workers and future occupants from exposure to dangerous substances, environmental lawyers said.

The state law mandates transparency and requires local governments to notify the public about potential hazards at a site before development begins. It allows the public to demand health protections and additional levels of cleanup, and requires formal consideration of those comments. To enforce compliance, people can sue agencies they think are failing to adhere to the law.

But in the past five years, the [San Francisco](#) Planning Department granted or considered categorical exemptions for at least a dozen projects on Cortese list sites, a Chronicle

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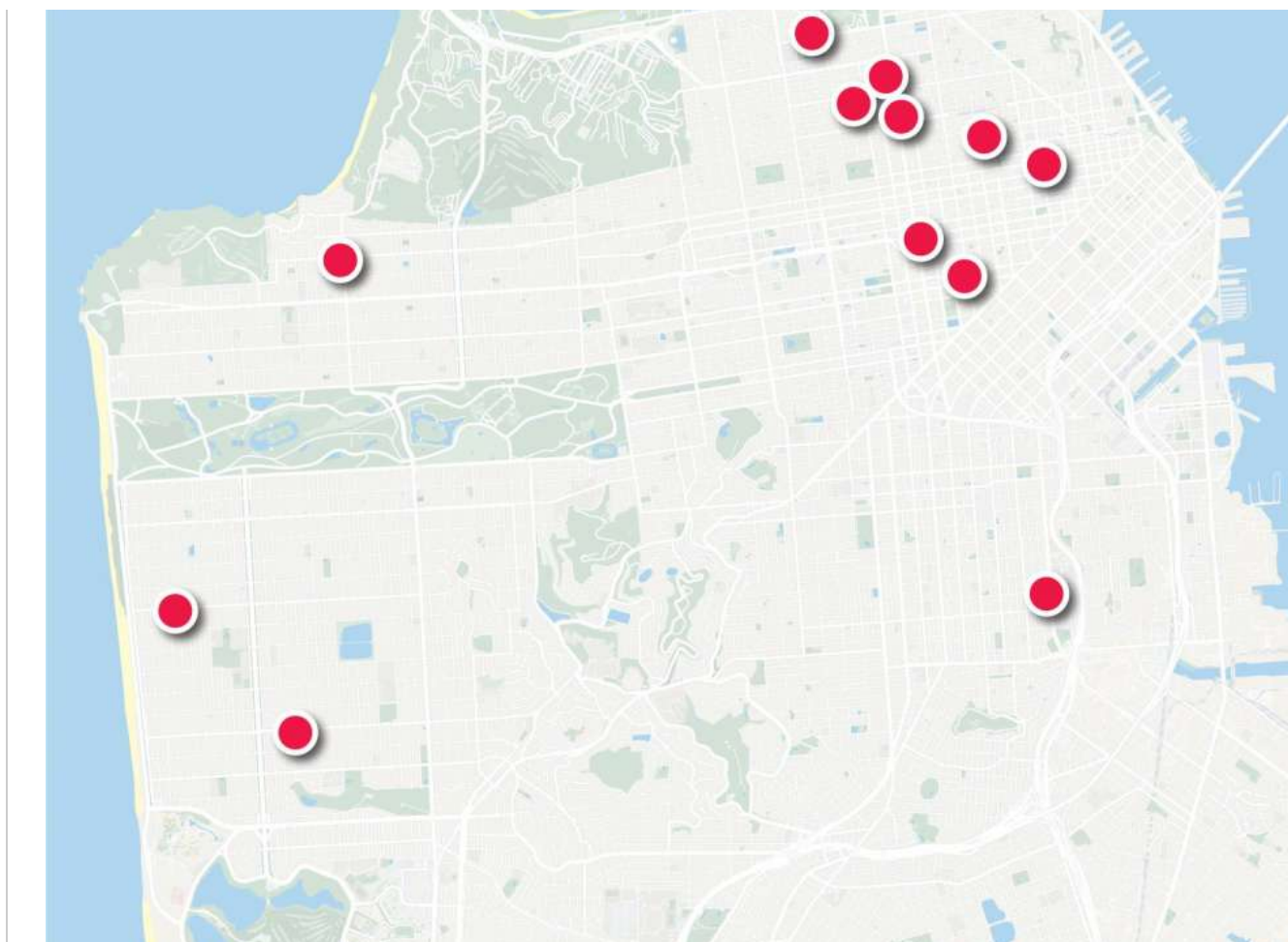
The mixed-use residential development at 2255 Taraval St. in San Francisco. The city granted the development an exemption from the state's environmental review process, despite the site's presence on a state list of hazardous waste sites.

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The city exempted nine of those projects from the state's public environmental review process. At four of the sites, work hasn't begun. Two are under construction. The final three have newly built condominiums, and at least one of those is occupied.

The city considered exempting the three other projects — including a condo development on the site of a vacant auto repair garage at 1776 Green St. in Cow Hollow, despite the presence of high levels of cancer-causing benzene in the soil and groundwater. The city abandoned that plan in February after neighbors hired a lawyer to fight it.

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Then, following inquiries about the exemptions from The Chronicle in early March, before the coronavirus shut down the economy, the Planning Department said it will stop giving categorical exemptions to projects on the Cortese list.

“The Planning Department is revising its approach to projects on these sites,” spokeswoman Gina Simi said.

Simi said the city relied on state guidance in granting some of the exemptions. Despite repeated requests from The Chronicle to see the guidance, however, Simi has not provided it.

An attorney with the State Water Resources Control Board, which oversees the largest part of the Cortese list with regional water boards, said he was unaware of any such guidance issued by the agency.

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properties to state and regional standards under a local ordinance carried out by the Public Health Department, regardless of whether a project receives an exemption from the state's environmental review process, she said.

"We strongly disagree with the false assertion that the city's local process is not as rigorous or as transparent as what is required under (state law), that it doesn't consider public comment or concerns, and that we intend to circumvent the state's environmental law," Simi said. "The city's environmental review procedures are meticulous."

But several environmental lawyers told The Chronicle that the California Environmental Quality Act allows far more scrutiny of development on toxic sites than the city's process alone. Under state law, the public can require safer measures be taken to reduce significant impacts on the environment and health, and can more easily sue if they are not. They said the city flouted state law and, in doing so, deprived the public of the ability to vet developments.

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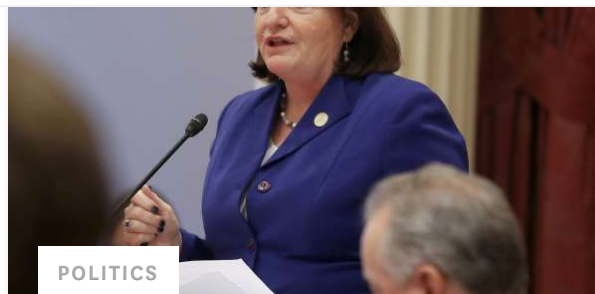
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"The city made a huge mistake and has been blatantly violating state law for years, thereby potentially placing an untold number of city residents at risk of exposure to highly toxic chemicals," said Richard Drury, an environmental lawyer representing neighbors of the vacant auto repair garage on Green Street.

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by the city's lengthy approval process and bans on apartments in large swaths of San Francisco, have turned to polluted land, including former garages and gas stations where toxic substances in underground tanks have leaked into the soil and groundwater.

The city and developers are motivated, as with any project, to get these properties developed as soon as possible — and exemptions from the state law can speed the process by reducing procedural hurdles, legal hangups and costs.

San Francisco has more than 2,000 leaky underground storage tank sites on the Cortese list, named for former state Assemblyman Dominic Cortese of San Jose. Nearly all of them, about 97%, have been cleaned to some extent, records show. Yet many may still contain contamination that could be hazardous.

The Chronicle looked at projects on Cortese list sites for which the city granted or considered categorical exemptions. There were at least 20 such projects since 2015, according to city data. The Chronicle focused on 12 where developers planned to excavate thousands of cubic yards of soil to build hundreds of new residential units.

Public documents for five of the 12 sites show the city also tried a second method to avoid state review and fast-track development: “common sense” exemptions.

State law restricts such exemptions to projects that present “no possibility” of significant hazards.

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A sign at 986 South Van Ness Ave. in San Francisco where the city considered exempting a proposed development from the state's environmental review process. The site is on a state list of hazardous waste sites that prohibits such exemptions.

That wouldn't apply to the five sites, however. Developing them would mean disturbing a great deal of potentially contaminated soil: from 1,400 to nearly 17,000 cubic yards, depending on the site, said Douglas Carstens, an environmental lawyer near [Los Angeles](#).

"Transparency is sorely needed," Carstens said. "So the cleanup is not just a bilateral negotiation between the project proponent and the city."

One of those sites is 2255 Taraval St. in the Outer Sunset neighborhood, where a former auto garage and laundromat left toxic residue behind.

The site is so clean "we could bring it down to the beach," said the project's [general contractor](#) one recent afternoon as a crew built a wooden frame on the property. The development will be a four-story, mixed-use building with 10 residential units.

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fumes at bay on the property. He asked that his name not be used because he wasn't authorized to speak publicly about the project.

He said the property now has a "serious vapor barrier and a probe buried under 2 feet of concrete." The equipment, though, will have to be tested every few years to ensure it continues to contain the hazards, he said.

"If there's gas, then they might have to put in a fan," he said.

That kind of uncertainty is precisely why contaminated sites should go through the state-mandated environmental review process, Drury said.

The state process allows the public to demand greater levels of cleanup so that measures such as vapor barriers — which are effective, but can fail — are not necessary.

Drury said the Green Street garage site is a case in point for why public involvement matters.

For years, the auto repair business stored gasoline in four large underground storage tanks. The tanks were removed in 2016, but crews later found they had leaked benzene and other hazardous substances into the soil and groundwater.

Nevertheless, last October the Planning Department considered a categorical exemption for a five-unit condo that developers planned to build on the site.

Drury protested. But rather than drop its effort to exempt the project, the city added a common-sense exemption to its options. Drury argued that the site remained significantly contaminated, pointing to the city's own records showing that benzene in the groundwater exceeded safety thresholds by about 900 times.

The city then tried a third tactic: announcing that the developer could investigate and clean the site without going through the public environmental review process.

Alarmed neighbors appealed to the Board of Supervisors.

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process.

This prompted Drury to fire off another written objection in April. He and the Green Street neighbors are still waiting for a response.

One of the neighbors who hired Drury last fall is Dr. Youjeong Kim, who lives across the street from the garage with her two children and husband, Ben Ellis.

The group of neighbors has spent many months and thousands of dollars trying to get the city to run the development through the state's environmental review.

“As a doctor and a parent it is really concerning and upsetting to me that of all places on Earth, we in San Francisco are going to skirt the law that is there to protect us,” Kim said. “If we hadn't had the time and the resources to press this issue, they would have just exempted it.”

San Francisco Chronicle staff writer Nanette Asimov and newsroom developer Evan Wagstaff contributed to this report.

*Cynthia Dizikes is a San Francisco Chronicle staff writer. Email: cdizikes@sfchronicle.com
Twitter: [@CDizikes](https://twitter.com/CDizikes)*

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April 7, 20211

President Shamann Walton and
San Francisco Board of Supervisors
Attn: Sup. Gordon Mar
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

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Senate Bill 37 addresses an increasingly common problem where localities exempt highly contaminated sites entirely from CEQA review. The result is that construction workers and future residents may be exposed to highly toxic chemicals without their knowledge and without proper safeguards.

Unfortunately, most serious hazards on a construction site are the silent killers, the ones we cannot see. Senate Bill 37 will close a loophole in state law and help to ensure that construction workers are not unwittingly exposed to toxic chemicals in soil and groundwater, and that safeguards are put in place to ensure that workers and future residents are made aware of historic soil contamination from leaking underground tanks and other sources so that proper measures can be imposed to clean-up the contamination safely.

For these reasons, the Laborers are in strong support of this important legislation and respectfully request the San Francisco Board of Supervisors approve the Resolution in support of Senate Bill 37.

Sincerely,



Joseph Cruz
Executive Director

cc: Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS-Administrative Aides](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS Legislation, \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#)
Subject: FW: Support for SB 37
Date: Tuesday, April 13, 2021 8:09:53 AM
Attachments: [2021.04.12.SF_SB_37_Support_Ltr.pdf](#)

From: Richard Drury <richard@lozeaudrury.com>

Sent: Monday, April 12, 2021 10:15 PM

To: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Lovett, Li (BOS) <li.lovett@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; MelgarStaff (BOS) <melgarstaff@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; ChanStaff (BOS) <chanstaff@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>

Cc: Letitia Yang <letitia.yang@gmail.com>; Youjeong Kim <ykimellis@gmail.com>; Camack2@comcast.net

Subject: Support for SB 37

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**RE: Supporting California State Senate Bill 37
(Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act)**

Honorable Members of the Board of Supervisors:

I am writing on behalf of THoR, an association of neighbors living near 1776 Green Street, San Francisco, to strongly urge you to adopt the resolution to support SB-37. Furthermore, we'd like to express our sincere gratitude to Supervisor Mar, President Walton, and Supervisors Melgar, Peskin, Preston, and Chan for sponsoring this resolution. Your support of SB-37 is critical to ensuring the health and well-being of all San Franciscans, but it is even more important from an environmental justice perspective. Too often, it is our most vulnerable communities that are severely impacted by toxic contamination.

As you know, SB-37 was recently introduced by Senator Dave Cortese in order to clarify that CEQA exemptions are prohibited for proposed construction projects on contaminated sites, known as Cortese List sites. The Cortese List was created by Senator Cortese's father over 35 years ago in order to safeguard public health and the environment. CEQA review ensures that the public is properly informed of the situation, and that these sites are appropriately remediated to minimize the health

risks for construction workers, current and future residents, and community members. These health risks can be quite significant, and for example, can include the impairment of mental and physical development in young children and can cause life-threatening diseases, such as cancer.

1776 Green Street is a perfect example of why CEQA exemptions should be strictly prohibited for Cortese List sites. In 2019, the San Francisco Planning Department issued a categorical exemption for a residential development project at 1776 Green Street and neglected to inform the public that the site was contaminated with cancer-causing substances at levels over 900 times above residential standards. It was only through THoR's considerable efforts and a public records request to the Department of Public Health, that we became aware of the potential dangers of developing the site without proper remediation.

THoR was left with no other option but to appeal to the Board of Supervisors in early 2020, which prompted the Planning Department to rescind the categorical exemption only to replace it with a Common Sense exemption. THoR advocated for over a year to ensure that the residential development project would only proceed with an appropriate remediation plan that would address the highly contaminated nature of the site. However, this process took a great emotional, psychological and financial toll on our members, and also required the intervention of Supervisor Stefani, which enabled us to reach a resolution that would help ensure the health and well-being of our community.

While THoR was able to advocate for its members and the broader community, one can safely assume that San Francisco's most vulnerable residents may not be in a position to do so. It is in this context that we urge you to adopt the resolution in support of SB-37 as a matter of public health and environmental justice.

Sincerely,

Richard Toshiyuki Drury
LOZEAU DRURY LLP

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BY E-MAIL

April 12, 2021

President Shamann Walton and Members of the Board of Supervisors
c/o Angela Cavillo, Clerk of the Board of Supervisors
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angela.calvillo@sfgov.org
bos@sfgov.org
li.lovett@sfgov.org

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SB 37 - SUPPORT

April 13, 2021

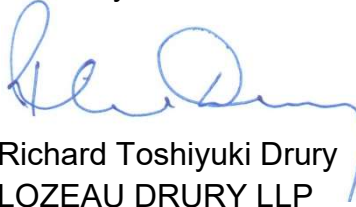
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On behalf of the California State Council of Laborers, I write in strong SUPPORT of the San Francisco Board of Supervisors Resolution supporting Senate Bill 37.

Senate Bill 37 would expressly provide that a project that is included on a consolidated list created, distributed, and posted online by the Secretary for Environmental Protection shall also not be exempt from CEQA.

Construction workers are exposed to a variety of health hazards every day. Without proper knowledge and protective gear these men and women have the potential for becoming sick, ill, and disabled for life.

Soil and groundwater can become contaminated as a result of past or current activities on the project site or on adjacent areas. Many industrial activities use, store, or generate contaminated materials that can be spilled, dumped, or buried nearby. Other activities common in mixed-use neighborhoods—such as gas stations and auto repair shops—can also result in contamination due to improper management of raw product and/or waste materials, or inadvertent spills.

Subsurface soil and groundwater contamination may remain undetected for many years, without posing a threat to nearby workers, residents, passersby, or other receptors. Excavation, earthmoving, dewatering, and other construction activities can, however, expose the contaminants, provide a pathway of exposure and, if such contaminants are not properly managed, introduce potential risk to construction workers and others nearby.

Senate Bill 37 addresses an increasingly common problem where localities exempt highly contaminated sites entirely from CEQA review. The result is that construction workers and future residents may be exposed to highly toxic chemicals without their knowledge and without proper safeguards.

Unfortunately, most serious hazards on a construction site are the silent killers, the ones we cannot see. Senate Bill 37 will close a loophole in state law and help to ensure that construction workers are not unwittingly exposed to toxic chemicals in soil and groundwater, and that safeguards are put in place to ensure that workers and future residents are made aware of historic soil contamination from leaking underground tanks and other sources so that proper measures can be imposed to clean-up the contamination safely.

For these reasons, the Laborers are in strong support of this important legislation and respectfully request the San Francisco Board of Supervisors approve the Resolution in support of Senate Bill 37.

Sincerely,



Joseph Cruz
Executive Director

cc: Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager



San Francisco Group, SF Bay Chapter

Serving San Francisco County

March 23, 2021

President Shamann Walton
Members of the Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act

Honorable Members of the Board of Supervisors:

The Sierra Club strongly urges you to pass a resolution supporting SB-37¹, a bill recently introduced by Senator Dave Cortese that would prevent cities from granting CEQA exemptions to projects proposed to be constructed on contaminated sites, known as Cortese List sites.

The Cortese List was created in 1985 pursuant to a law introduced by Senator Dominic Cortese, Senator Dave Cortese's father. The Cortese List requires the state to compile a list of properties known to be contaminated with hazardous materials. "The list, or a site's presence on the list, has bearing on the local permitting process as well as on compliance with the California Environmental Quality Act (CEQA)."² Projects proposed to be constructed on these sites may not be exempted from CEQA review. This ensures that the public is informed of contamination and can ensure through CEQA review that contamination is properly remediated prior to project construction.

The law which created the Cortese List was prompted by several incidents in which construction workers were exposed to toxic soil contamination. CEQA review helps to ensure that such exposure can be prevented. It also ensures that future residents of projects on Cortese list sites will not be exposed to vapors from contaminated soil.

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB37

² <https://calepa.ca.gov/sitecleanup/corteselist/background/>

In 2020 Senator Cortese learned from a *San Francisco Chronicle* article that the City of San Francisco has granted numerous CEQA exemptions over many years for projects to be constructed on Cortese List sites; this practice is in direct violation of existing law.³

SB-37 ensures that San Francisco, and any other cities, must cease this illegal practice going forward. SB-37 would further clarify that if a project is proposed to be constructed on a contaminated Cortese List site, neither a categorical exemption nor a "common sense" exemption may be used to avoid CEQA review.

Those opposed to SB-37 may claim that it would create undue delays for projects. On the contrary, it may actually speed up project review and approval. Most contamination can be addressed through standard mitigation measures, which would allow a CEQA mitigated negative declaration. In the case of San Francisco, a mitigated negative declaration only requires a 20-day public comment period. In this context, SB-37 would provide clear rules that would ultimately expedite project approval.

We strongly urge the Board of Supervisors to pass a resolution in support of SB-37 in the interest of safeguarding public health and protecting the environment.

Sincerely,

Becky Evans

Becky Evans

Member, SF Group Executive Committee
Member, SF Bay Chapter Executive Committee

³ <https://www.sfchronicle.com/bayarea/article/Exclusive-How-SF-sidestepped-state-law-on-15322356.php>



Laborers'
International
Union of
North America

LiUNA!

Feel the Power

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Council of Laborers

Rocco Davis
LiUNA Vice President at Large
Regional Manager
Pacific Southwest Region
Special Assistant to the
General President

January 4, 2021

The Honorable Dave Cortese
Senator
State Capitol, Room 2082
Sacramento, CA 95814

**RE: SB 37—Contaminated Sites:
The Dominic Cortese "Cortese List" Act of 2021—
SPONSOR/SUPPORT**

Dear Senator Cortese,

On behalf of the California State Council of Laborers, I write to express our support as proud **SPONSOR** of your bill, **SB 37**.

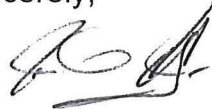
This bill seeks to update the Hazardous Waste and Substances Site List, or "Cortese List" that was created by then Assembly Member Dominic Cortese in 1985.

The Cortese List is a planning document that is updated annually and informs the public about the location of hazardous materials release sites. In 1991, a subsequent law was passed that prohibits a project from being exempt under CEQA if it is located on a Cortese List site. Additionally, Section 21084 of the Public Resources Code also states that exemptions cannot be granted for Cortese List site projects. Despite this, entities have granted "common sense" exemptions and bypassed environmental review requirements for Cortese List sites and claim that these types of exemptions are not subject to the aforementioned section of the Public Resources Code.

Conducting work on projects that are on Cortese List sites without hazardous substance mitigation is dangerous. It poses health risks not only to those who work on these projects in the construction industry—including our members—but also to the nearby community. This bill will clarify the Public Resources Code to state that all types of exemptions, including "common sense" exemptions, cannot be granted to projects that are on Cortese List sites.

This legislation will increase safety for all those who work in the construction industry directly or indirectly as well as the safety of the future occupants of these developments. We applaud your leadership on this important issue seeking to protect California workers and are pleased to serve as Sponsor of this bill. Should you have any questions or concerns, please contact Katie Donahue-Duran or myself at (916) 447-7018.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Mejia', with a stylized flourish at the end.

Jose Mejia

CC: Sunshine Borelli, Chief of Staff, Office of Senator Dave Cortese
Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager



MYRNA MELGAR

DATE: April 28, 2021

TO: Angela Calvillo
Clerk of the Board of Supervisors

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

RE: Land Use and Transportation Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, May 4, 2021, as a Committee Report:

**File No. 210353 Supporting California State Senate Bill No. 37 (Cortese) -
Contaminated Sites
Sponsors: Mar; Walton, Melgar, Peskin, Preston, Chan and Haney**

Resolution supporting California State Senate Bill No. 37, Contaminated Sites: The Hazardous Waste Site Cleanup and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of the common sense exemption to be applied to construction projects located on contaminated sites identified on the state's Cortese List.

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, May 3, 2021, at 1:30 p.m.

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only