

**Introduced by Senators Caballero, Eggman, and Rubio
(Principal coauthors: Senators Atkins, Durazo, Gonzalez, and
Wiener)**

(Coauthor: Senator Hueso)

(Coauthors: Assembly Members Arambula, Carrillo, Cooper, Gipson,
Quirk-Silva, and Robert Rivas)

December 7, 2020

An act to amend Section 65913.4 of, and to add Section 65852.23 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as introduced, Caballero. Local planning: housing: commercial zones.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. Existing law requires that the housing element include, among other things, an inventory of land suitable and available for residential development. If the inventory of sites does not identify adequate sites to accommodate the need for groups of all households pursuant to specified law, existing law requires the local government to rezone sites within specified time periods and that this rezoning accommodate 100% of the need for housing for very low and low-income households on sites that will be zoned to permit owner-occupied and rental multifamily residential use by right for specified developments.

This bill, the Neighborhood Homes Act, would deem a housing development project, as defined, an allowable use on a neighborhood lot, which is defined as a parcel within an office or retail commercial

zone that is not adjacent to an industrial use. The bill would require the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction. The bill would require the housing development to meet all other local requirements for a neighborhood lot, other than those that prohibit residential use, or allow residential use at a lower density than that required by the bill. The bill would provide that a housing development under these provisions is subject to the local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density required by the act. If more than one zoning designation of the local agency allows for housing with the density required by the act, the bill would require that the zoning standards that apply to the closest parcel that allows residential use at a density that meets the requirements of the act would apply. If the existing zoning designation allows residential use at a density greater than that required by the act, the bill would require that the existing zoning designation for the parcel would apply. The bill would also require that a housing development under these provisions comply with public notice, comment, hearing, or other procedures applicable to a housing development in a zone with the applicable density. The bill would require that the housing development is subject to a recorded deed restriction with an unspecified affordability requirement, as provided. The bill would require that a developer either certify that the development is a public work, as defined, or is not in its entirety a public work, but that all construction workers will be paid prevailing wages, as provided, or certify that a skilled and trained workforce, as defined, will be used to perform all construction work on the development, as provided. The bill would require a local agency to require that a rental of any unit created pursuant to the bill's provisions be for a term longer than 30 days. The bill would authorize a local agency to exempt a neighborhood lot from these provisions in its land use element of the general plan if the local agency concurrently reallocates the lost residential density to other lots so that there is no net loss in residential density in the jurisdiction, as provided. The bill would specify that it does not alter or affect the application of any housing, environmental, or labor law applicable to a housing development authorized by these provisions, including, but not limited

to, the California Coastal Act, the California Environmental Quality Act, the Housing Accountability Act, obligations to affirmatively further fair housing, and any state or local affordability laws or tenant protection laws. The bill would require an applicant of a housing development under these provisions to provide notice of a pending application to each commercial tenant of the neighborhood lot.

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

The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project, as defined for purposes of the act, for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That act states that it shall not be construed to prohibit a local agency from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, except as provided. That act further provides that a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

The bill would provide that for purposes of the Housing Accountability Act, a proposed housing development project is consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if the housing development project is consistent with the standards applied to the parcel pursuant to specified provisions of the Neighborhood Homes Act and if none of the square footage in the project is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel, as defined.

The Planning and Zoning Law, until January 1, 2026, also authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial

approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards, including a requirement that the site on which the development is proposed is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least $\frac{2}{3}$ of the square footage of the development designated for residential use. Under that law, the proposed development is also required to be consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time the development is submitted to the local government.

This bill would permit the development to be proposed for a site zoned for office or retail commercial use if the site has had no commercial tenants on 50% or more of its total usable net interior square footage for a period of at least 3 years prior to the submission of the application. The bill would also provide that a project located on a neighborhood lot, as defined, shall be deemed consistent with objective zoning standards, objective design standards, and objective subdivision standards if the project is consistent with the applicable provisions of the Neighborhood Homes Act.

By expanding the crime of perjury and imposing new duties on local agencies with regard to local planning and zoning, this bill would impose a state-mandated local program.

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

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

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

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

- 1 SECTION 1. Section 65852.23 is added to the Government
- 2 Code, to read:
- 3 65852.23. (a) (1) This section shall be known, and may be
- 4 cited, as the Neighborhood Homes Act.
- 5 (2) The Legislature finds and declares that creating more
- 6 affordable housing is critical to the achievement of regional
- 7 housing needs assessment goals, and that housing units developed

1 at higher densities may generate affordability by design for
2 California residents, without the necessity of public subsidies,
3 income eligibility, occupancy restrictions, lottery procedures, or
4 other legal requirements applicable to deed restricted affordable
5 housing to serve very low and low-income residents and special
6 needs residents.

7 (b) A housing development project shall be deemed an allowable
8 use on a neighborhood lot if it complies with all of the following:

9 (1) (A) The density for the housing development shall meet or
10 exceed the applicable density deemed appropriate to accommodate
11 housing for lower income households as follows:

12 (i) For an incorporated city within a nonmetropolitan county
13 and for a nonmetropolitan county that has a micropolitan area,
14 sites allowing at least 15 units per acre.

15 (ii) For an unincorporated area in a nonmetropolitan county not
16 included in subparagraph (A), sites allowing at least 10 units per
17 acre.

18 (iii) For a suburban jurisdiction, sites allowing at least 20 units
19 per acre.

20 (iv) For a jurisdiction in a metropolitan county, sites allowing
21 at least 30 units per acre.

22 (B) “Metropolitan county,” “nonmetropolitan county,”
23 “nonmetropolitan county with a micropolitan area,” and
24 “suburban,” shall have the same meanings as defined in
25 subdivisions (d), (e), and (f) of Section 65583.2.

26 (2) (A) The housing development shall be subject to local
27 zoning, parking, design, and other ordinances, local code
28 requirements, and procedures applicable to the processing and
29 permitting of a housing development in a zone that allows for the
30 housing with the density described in paragraph (1).

31 (B) If more than one zoning designation of the local agency
32 allows for housing with the density described in paragraph (1), the
33 zoning standards applicable to a parcel that allows residential use
34 pursuant to this section shall be the zoning standards that apply to
35 the closest parcel that allows residential use at a density that meets
36 the requirements of paragraph (1).

37 (C) If the existing zoning designation for the parcel, as adopted
38 by the local government, allows residential use at a density greater
39 than that required in paragraph (1), the existing zoning designation
40 shall apply.

- 1 (3) The housing development shall comply with any public
2 notice, comment, hearing, or other procedures imposed by the
3 local agency on a housing development in the applicable zoning
4 designation identified in paragraph (2).
- 5 (4) The housing development shall be subject to a recorded deed
6 restriction requiring that at least __ percent of the units have an
7 affordable housing cost or affordable rent for lower income
8 households.
- 9 (5) All other local requirements for a neighborhood lot, other
10 than those that prohibit residential use, or allow residential use at
11 a lower density than provided in paragraph (1).
- 12 (6) The developer has done both of the following:
 - 13 (A) Certified to the local agency that either of the following is
14 true:
 - 15 (i) The entirety of the development is a public work for purposes
16 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
17 2 of the Labor Code.
 - 18 (ii) The development is not in its entirety a public work for
19 which prevailing wages must be paid under Article 2 (commencing
20 with Section 1720) of Chapter 1 of Part 2 of Division 2 of the
21 Labor Code, but all construction workers employed on construction
22 of the development will be paid at least the general prevailing rate
23 of per 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 developer shall ensure that the prevailing wage
32 requirement is included in all contracts for the performance of all
33 construction 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, or by an underpaid worker through an administrative
12 complaint or civil action, or by a joint labor-management
13 committee through a civil action under Section 1771.2 of the Labor
14 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) Certified to the local agency that a skilled and trained
38 workforce will be used to perform all construction work on the
39 development.

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

5 (ii) If the developer has certified that a skilled and trained
6 workforce will be used to construct all work on development and
7 the application is approved, the following shall apply:

8 (I) The developer shall require in all contracts for the
9 performance of work that every contractor and subcontractor at
10 every tier will individually use a skilled and trained workforce to
11 construct the development.

12 (II) Every contractor and subcontractor shall use a skilled and
13 trained workforce to construct the development.

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

38 (IV) Subclause (III) shall not apply if all contractors and
39 subcontractors performing work on the development are subject
40 to a project labor agreement that requires compliance with the

1 skilled and trained workforce requirement and provides for
2 enforcement of that obligation through an arbitration procedure.
3 For purposes of this subparagraph, “project labor agreement” has
4 the same meaning as set forth in paragraph (1) of subdivision (b)
5 of Section 2500 of the Public Contract Code.

6 (c) A local agency shall require that a rental of any unit created
7 pursuant to this section be for a term longer than 30 days.

8 (d) (1) A local agency may exempt a neighborhood lot from
9 this section in its land use element of the general plan if the local
10 agency concurrently reallocates the lost residential density to other
11 lots so that there is no net loss in residential density in the
12 jurisdiction.

13 (2) A local agency may reallocate the residential density from
14 an exempt neighborhood lot pursuant to this subdivision only if
15 the site or sites chosen by the local agency to which the residential
16 density is reallocated meet both of the following requirements:

17 (A) The site or sites are suitable for residential development.
18 For purposes of this subparagraph, “site or sites suitable for
19 residential development” shall have the same meaning as “land
20 suitable for residential development,” as defined in Section
21 65583.2.

22 (B) The site or sites are subject to an ordinance that allows for
23 development by right.

24 (e) (1) This section does not alter or lessen the applicability of
25 any housing, environmental, or labor law applicable to a housing
26 development authorized by this section, including, but not limited
27 to, the following:

28 (A) The California Coastal Act of 1976 (Division 20
29 commencing with Section 30000) of the Public Resources Code)

30 (B) The California Environmental Quality Act (Division 13
31 commencing with Section 21000) of the Public Resources Code).

32 (C) The Housing Accountability Act (Section 65589.5).

33 (D) The Density Bonus Law (Section 65915).

34 (E) Obligations to affirmatively further fair housing, pursuant
35 to Section 8899.50.

36 (F) State or local affordable housing laws.

37 (G) State or local tenant protection laws.

38 (2) All local demolition ordinances shall apply to a project
39 developed on a neighborhood lot.

1 (3) For purposes of the Housing Accountability Act (Section
2 65589.5), a proposed housing development project that is consistent
3 with the provisions of paragraph (2) of subdivision (b) shall be
4 deemed consistent, compliant, and in conformity with an applicable
5 plan, program, policy, ordinance, standard, requirement, or other
6 similar provision.

7 (4) Notwithstanding any other provision of this section, for
8 purposes of the Density Bonus Law (Section 65915), an applicant
9 for a housing development under this section may apply for a
10 density bonus pursuant to Section 65915.

11 (f) An applicant for a housing development under this section
12 shall provide written notice of the pending application to each
13 commercial tenant on the neighborhood lot when the application
14 is submitted.

15 (g) (1) An applicant seeking to develop a housing project on a
16 neighborhood lot may request that a local agency establish a
17 Mello-Roos Community Facilities District, or may request that
18 the neighborhood lot be annexed to an existing community facilities
19 district, as authorized in Chapter 2.5 (commencing with Section
20 53311) of Part 1 of Division 2 of Title 5 to finance improvements
21 and services to the units proposed to be developed.

22 (2) An annexation to a community facilities district for a
23 neighborhood lot shall be subject to a protest proceeding as
24 provided in subdivision (b) of Section 53339.6.

25 (3) An applicant who voluntarily enrolls in the district shall not
26 be required to pay a development, impact, or mitigation fee, charge,
27 or exaction in connection with the approval of a development
28 project to the extent that those facilities and services are funded
29 by a community facilities district established pursuant to this
30 subdivision. This paragraph shall not prohibit a local agency from
31 imposing any application, development, mitigation, building, or
32 other fee to fund the construction cost of public infrastructure
33 facilities or services that are not funded by a community facilities
34 district to support a housing development project.

35 (h) For purposes of this section:

36 (1) “Housing development project” means a use consisting of
37 any of the following:

38 (A) Residential units only.

39 (B) Mixed-use developments consisting of residential and
40 nonresidential retail commercial or office uses. None of the square

1 footage of any such development shall be designated for hotel,
2 motel, bed and breakfast inn, or other transient lodging use, except
3 for a residential hotel.

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

6 (3) “Neighborhood lot” means a parcel within an office or retail
7 commercial zone that is not adjacent to an industrial use.

8 (4) “Office or retail commercial zone” means any commercial
9 zone, except for zones where office uses and retail uses are not
10 permitted, or are permitted only as an accessory use.

11 (5) “Residential hotel” has the same meaning as defined in
12 Section 50519 of the Health and Safety Code.

13 (i) The Legislature finds and declares that ensuring access to
14 affordable housing is a matter of statewide concern and is not a
15 municipal affair as that term is used in Section 5 of Article XI of
16 the California Constitution. Therefore, this section applies to all
17 cities, including charter cities.

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

20 65913.4. (a) A development proponent may submit an
21 application for a development that is subject to the streamlined,
22 ministerial approval process provided by subdivision (c) and is
23 not subject to a conditional use permit if the development complies
24 with subdivision (b) and satisfies all of the following objective
25 planning standards:

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

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

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

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

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

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

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

7 (III) The site is zoned for office or retail commercial use and
8 has had no commercial tenants on 50 percent or more of its total
9 usable net interior square footage for a period of at least three
10 years prior to the submission of the application.

11 ~~(C)~~

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

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

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

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

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

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

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

1 for that reporting period. A locality shall remain eligible under
2 this subparagraph until the department’s determination for the next
3 reporting period.

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

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

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

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

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

1 (ii) The locality’s latest production report reflects that there
2 were fewer units of housing issued building permits affordable to
3 either very low income or low-income households by income
4 category than were required for the regional housing needs
5 assessment cycle for that reporting period, and the project seeking
6 approval dedicates 50 percent of the total number of units to
7 housing affordable to households making at or below 80 percent
8 of the area median income. However, if the locality has adopted
9 a local ordinance that requires that greater than 50 percent of the
10 units be dedicated to housing affordable to households making at
11 or below 80 percent of the area median income, that local ordinance
12 applies.

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

21 (C) (i) A development proponent that uses a unit of affordable
22 housing to satisfy the requirements of subparagraph (B) may also
23 satisfy any other local or state requirement for affordable housing,
24 including local ordinances or the Density Bonus Law in Section
25 65915, provided that the development proponent complies with
26 the applicable requirements in the state or local law.

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

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

36 (5) The development, excluding any additional density or any
37 other concessions, incentives, or waivers of development standards
38 granted pursuant to the Density Bonus Law in Section 65915, is
39 consistent with objective zoning standards, objective subdivision
40 standards, and objective design review standards in effect at the

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

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

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

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

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

35 (E) *A project located on a neighborhood lot, as defined in Section*
36 *65852.23, shall be deemed consistent with objective zoning*
37 *standards, objective design standards, and objective subdivision*
38 *standards if the project is consistent with the provisions of*
39 *subdivision (b) of Section 65852.23 and if none of the square*
40 *footage in the project is designated for hotel, motel, bed and*

1 *breakfast inn, or other transient lodging use, except for a*
2 *residential hotel. For purposes of this subdivision, “residential*
3 *hotel” shall have the same meaning as defined in Section 50519*
4 *of the Health and Safety Code.*

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

7 (A) A coastal zone, as defined in Division 20 (commencing
8 with Section 30000) of the Public Resources Code.

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

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

19 (D) Within a very high fire hazard severity zone, as determined
20 by the Department of Forestry and Fire Protection pursuant to
21 Section 51178, or within a high or very high fire hazard severity
22 zone as indicated on maps adopted by the Department of Forestry
23 and Fire Protection pursuant to Section 4202 of the Public
24 Resources Code. This subparagraph does not apply to sites
25 excluded from the specified hazard zones by a local agency,
26 pursuant to subdivision (b) of Section 51179, or sites that have
27 adopted fire hazard mitigation measures pursuant to existing
28 building standards or state fire mitigation measures applicable to
29 the development.

30 (E) A hazardous waste site that is listed pursuant to Section
31 65962.5 or a hazardous waste site designated by the Department
32 of Toxic Substances Control pursuant to Section 25356 of the
33 Health and Safety Code, unless the State Department of Public
34 Health, State Water Resources Control Board, or Department of
35 Toxic Substances Control has cleared the site for residential use
36 or residential mixed uses.

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

1 Building Standards Commission under the California Building
2 Standards Law (Part 2.5 (commencing with Section 18901) of
3 Division 13 of the Health and Safety Code), and by any local
4 building department under Chapter 12.2 (commencing with Section
5 8875) of Division 1 of Title 2.

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

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

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

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

1 (I) Lands identified for conservation in an adopted natural
2 community conservation plan pursuant to the Natural Community
3 Conservation Planning Act (Chapter 10 (commencing with Section
4 2800) of Division 3 of the Fish and Game Code), habitat
5 conservation plan pursuant to the federal Endangered Species Act
6 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
7 resource protection plan.

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

16 (K) Lands under conservation easement.

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

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

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

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

26 (iii) Housing that has been occupied by tenants within the past
27 10 years.

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

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

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

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

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

3 (i) The entirety of the development is a public work for purposes
4 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
5 2 of the Labor Code.

6 (ii) If the development is not in its entirety a public work, that
7 all construction workers employed in the execution of the
8 development will be paid at least the general prevailing rate of per
9 diem wages for the type of work and geographic area, as
10 determined by the Director of Industrial Relations pursuant to
11 Sections 1773 and 1773.9 of the Labor Code, except that
12 apprentices registered in programs approved by the Chief of the
13 Division of Apprenticeship Standards may be paid at least the
14 applicable apprentice prevailing rate. If the development is subject
15 to this subparagraph, then for those portions of the development
16 that are not a public work all of the following shall apply:

17 (I) The development proponent shall ensure that the prevailing
18 wage requirement is included in all contracts for the performance
19 of the work.

20 (II) All contractors and subcontractors shall pay to all
21 construction workers employed in the execution of the work at
22 least the general prevailing rate of per diem wages, except that
23 apprentices registered in programs approved by the Chief of the
24 Division of Apprenticeship Standards may be paid at least the
25 applicable apprentice prevailing rate.

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

30 (IV) Except as provided in subclause (V), the obligation of the
31 contractors and subcontractors to pay prevailing wages may be
32 enforced by the Labor Commissioner through the issuance of a
33 civil wage and penalty assessment pursuant to Section 1741 of the
34 Labor Code, which may be reviewed pursuant to Section 1742 of
35 the Labor Code, within 18 months after the completion of the
36 development, by an underpaid worker through an administrative
37 complaint or civil action, or by a joint labor-management
38 committee through a civil action under Section 1771.2 of the Labor
39 Code. If a civil wage and penalty assessment is issued, the
40 contractor, subcontractor, and surety on a bond or bonds issued to

1 secure the payment of wages covered by the assessment shall be
2 liable for liquidated damages pursuant to Section 1742.1 of the
3 Labor Code.

4 (V) Subclauses (III) and (IV) shall not apply if all contractors
5 and subcontractors performing work on the development are subject
6 to a project labor agreement that requires the payment of prevailing
7 wages to all construction workers employed in the execution of
8 the development and provides for enforcement of that obligation
9 through an arbitration procedure. For purposes of this clause,
10 “project labor agreement” has the same meaning as set forth in
11 paragraph (1) of subdivision (b) of Section 2500 of the Public
12 Contract Code.

13 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the
14 Labor Code, the requirement that employer payments not reduce
15 the obligation to pay the hourly straight time or overtime wages
16 found to be prevailing shall not apply if otherwise provided in a
17 bona fide collective bargaining agreement covering the worker.
18 The requirement to pay at least the general prevailing rate of per
19 diem wages does not preclude use of an alternative workweek
20 schedule adopted pursuant to Section 511 or 514 of the Labor
21 Code.

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

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

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

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

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

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

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

15 (iii) If the development proponent has certified that a skilled
16 and trained workforce will be used to complete the development
17 and the application is approved, the following shall apply:

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

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

24 (III) Except as provided in subclause (IV), the applicant shall
25 provide to the locality, on a monthly basis while the development
26 or contract is being performed, a report demonstrating compliance
27 with Chapter 2.9 (commencing with Section 2600) of Part 1 of
28 Division 2 of the Public Contract Code. A monthly report provided
29 to the locality pursuant to this subclause shall be a public record
30 under the California Public Records Act (Chapter 3.5 (commencing
31 with Section 6250) of Division 7 of Title 1) and shall be open to
32 public inspection. An applicant that fails to provide a monthly
33 report demonstrating compliance with Chapter 2.9 (commencing
34 with Section 2600) of Part 1 of Division 2 of the Public Contract
35 Code shall be subject to a civil penalty of ten thousand dollars
36 (\$10,000) per month for each month for which the report has not
37 been provided. Any contractor or subcontractor that fails to use a
38 skilled and trained workforce shall be subject to a civil penalty of
39 two hundred dollars (\$200) per day for each worker employed in
40 contravention of the skilled and trained workforce requirement.

1 Penalties may be assessed by the Labor Commissioner within 18
2 months of completion of the development using the same
3 procedures for issuance of civil wage and penalty assessments
4 pursuant to Section 1741 of the Labor Code, and may be reviewed
5 pursuant to the same procedures in Section 1742 of the Labor
6 Code. Penalties shall be paid to the State Public Works
7 Enforcement Fund.

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

16 (C) Notwithstanding subparagraphs (A) and (B), a development
17 that is subject to approval pursuant to this section is exempt from
18 any requirement to pay prevailing wages or use a skilled and
19 trained workforce if it meets both of the following:

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

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

24 (9) The development did not or does not involve a subdivision
25 of a parcel that is, or, notwithstanding this section, would otherwise
26 be, subject to the Subdivision Map Act (Division 2 (commencing
27 with Section 66410)) or any other applicable law authorizing the
28 subdivision of land, unless the development is consistent with all
29 objective subdivision standards in the local subdivision ordinance,
30 and either of the following apply:

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

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

38 (10) The development shall not be upon an existing parcel of
39 land or site that is governed under the Mobilehome Residency Law
40 (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2

1 of Division 2 of the Civil Code), the Recreational Vehicle Park
2 Occupancy Law (Chapter 2.6 (commencing with Section 799.20)
3 of Title 2 of Part 2 of Division 2 of the Civil Code), the
4 Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)
5 of Division 13 of the Health and Safety Code), or the Special
6 Occupancy Parks Act (Part 2.3 (commencing with Section 18860)
7 of Division 13 of the Health and Safety Code).

8 (b) (1) (A) (i) Before submitting an application for a
9 development subject to the streamlined, ministerial approval
10 process described in subdivision (c), the development proponent
11 shall submit to the local government a notice of its intent to submit
12 an application. The notice of intent shall be in the form of a
13 preliminary application that includes all of the information
14 described in Section 65941.1, as that section read on January 1,
15 2020.

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

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

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

36 (ia) A description of the proposed development.

37 (ib) The location of the proposed development.

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

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

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

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

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

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

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

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

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

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

5 (ii) Section 6254.10.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (6) This section is not intended, and shall not be construed, to
37 limit consultation and discussion between a local government and
38 a California Native American tribe pursuant to other applicable
39 law, confidentiality provisions under other applicable law, the
40 protection of religious exercise to the fullest extent permitted under

1 state and federal law, or the ability of a California Native American
2 tribe to submit information to the local government or participate
3 in any process of the local government.

4 (7) For purposes of this subdivision:

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

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

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

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

36 (A) Within 60 days of submittal of the development to the local
37 government pursuant to this section if the development contains
38 150 or fewer housing units.

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

4 (2) If the local government fails to provide the required
5 documentation pursuant to paragraph (1), the development shall
6 be deemed to satisfy the objective planning standards specified in
7 subdivision (a).

8 (3) For purposes of this section, a development is consistent
9 with the objective planning standards specified in subdivision (a)
10 if there is substantial evidence that would allow a reasonable person
11 to conclude that the development is consistent with the objective
12 planning standards.

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

27 (A) Within 90 days of submittal of the development to the local
28 government pursuant to this section if the development contains
29 150 or fewer housing units.

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

33 (2) If the development is consistent with the requirements of
34 subparagraph (A) or (B) of paragraph (9) of subdivision (a) and
35 is consistent with all objective subdivision standards in the local
36 subdivision ordinance, an application for a subdivision pursuant
37 to the Subdivision Map Act (Division 2 (commencing with Section
38 66410)) shall be exempt from the requirements of the California
39 Environmental Quality Act (Division 13 (commencing with Section

1 21000) of the Public Resources Code) and shall be subject to the
2 public oversight timelines set forth in paragraph (1).

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

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

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

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

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

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

22 (f) (1) If a local government approves a development pursuant
23 to this section, then, notwithstanding any other law, that approval
24 shall not expire if the project includes public investment in housing
25 affordability, beyond tax credits, where 50 percent of the units are
26 affordable to households making at or below 80 percent of the area
27 median income.

28 (2) (A) If a local government approves a development pursuant
29 to this section and the project does not include 50 percent of the
30 units affordable to households making at or below 80 percent of
31 the area median income, that approval shall remain valid for three
32 years from the date of the final action establishing that approval,
33 or if litigation is filed challenging that approval, from the date of
34 the final judgment upholding that approval. Approval shall remain
35 valid for a project provided that vertical construction of the
36 development has begun and is in progress. For purposes of this
37 subdivision, “in progress” means one of the following:

38 (i) The construction has begun and has not ceased for more than
39 180 days.

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

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

11 (3) If a local government approves a development pursuant to
12 this section, that approval shall remain valid for three years from
13 the date of the final action establishing that approval and shall
14 remain valid thereafter for a project so long as vertical construction
15 of the development has begun and is in progress. Additionally, the
16 development proponent may request, and the local government
17 shall have discretion to grant, an additional one-year extension to
18 the original three-year period. The local government's action and
19 discretion in determining whether to grant the foregoing extension
20 shall be limited to considerations and processes set forth in this
21 section.

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

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

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

39 (D) A guideline that was adopted or amended by the department
40 pursuant to subdivision (j) after a development was approved

1 through the streamlined ministerial approval process described in
2 subdivision (b) shall not be used as a basis to deny proposed
3 modifications.

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

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

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

17 (B) The development is revised such that the total number of
18 residential units or total square footage of construction changes
19 by 5 percent or more and it is necessary to subject the development
20 to an objective standard beyond those in effect when the
21 development application was submitted in order to mitigate or
22 avoid a specific, adverse impact, as that term is defined in
23 subparagraph (A) of paragraph (1) of subdivision (j) of Section
24 65589.5, upon the public health or safety and there is no feasible
25 alternative method to satisfactorily mitigate or avoid the adverse
26 impact.

27 (C) Objective building standards contained in the California
28 Building Standards Code (Title 24 of the California Code of
29 Regulations), including, but not limited to, building plumbing,
30 electrical, fire, and grading codes, may be applied to all
31 modifications.

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

39 (h) (1) A local government shall not adopt or impose any
40 requirement, including, but not limited to, increased fees or

1 inclusionary housing requirements, that applies to a project solely
2 or partially on the basis that the project is eligible to receive
3 ministerial or streamlined approval pursuant to this section.

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

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

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

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

38 (ii) Conduct its review and approval in the same manner as it
39 would evaluate the public improvement if required by a project

1 that is not eligible to receive ministerial or streamlined approval
2 pursuant to this section.

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

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

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

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

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

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

23 (1) Lease, convey, or encumber land owned by the local
24 government or the San Francisco Bay Area Rapid Transit District
25 or to facilitate the lease, conveyance, or encumbrance of land
26 owned by the local government, or for the lease of land owned by
27 the San Francisco Bay Area Rapid Transit District in association
28 with an eligible TOD project, as defined pursuant to Section
29 29010.1 of the Public Utilities Code, nor to any decisions
30 associated with that lease, or to provide financial assistance to a
31 development that receives streamlined approval pursuant to this
32 section that is to be used for housing for persons and families of
33 very low, low, or moderate income, as defined in Section 50093
34 of the Health and Safety Code.

35 (2) Approve improvements located on land owned by the local
36 government or the San Francisco Bay Area Rapid Transit District
37 that are necessary to implement a development that receives
38 streamlined approval pursuant to this section that is to be used for
39 housing for persons and families of very low, low, or moderate
40 income, as defined in Section 50093 of the Health and Safety Code.

1 (k) For purposes of this section, the following terms have the
2 following meanings:

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

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

7 (3) “Department” means the Department of Housing and
8 Community Development.

9 (4) “Development proponent” means the developer who submits
10 an application for streamlined approval pursuant to this section.

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

14 (6) “Locality” or “local government” means a city, including a
15 charter city, a county, including a charter county, or a city and
16 county, including a charter city and county.

17 (7) “Moderate income housing units” means housing units with
18 an affordable housing cost or affordable rent for persons and
19 families of moderate income, as that term is defined in Section
20 50093 of the Health and Safety Code.

21 (8) “Production report” means the information reported pursuant
22 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
23 65400.

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

28 (10) “Subsidized” means units that are price or rent restricted
29 such that the units are affordable to households meeting the
30 definitions of very low and lower income, as defined in Sections
31 50079.5 and 50105 of the Health and Safety Code.

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

33 (A) The first half of the regional housing needs assessment
34 cycle.

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

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

39 (l) The department may review, adopt, amend, and repeal
40 guidelines to implement uniform standards or criteria that

1 supplement or clarify the terms, references, or standards set forth
2 in this section. Any guidelines or terms adopted pursuant to this
3 subdivision shall not be subject to Chapter 3.5 (commencing with
4 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
5 Code.

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

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

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

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act or because costs that may be
21 incurred by a local agency or school district will be incurred
22 because this act creates a new crime or infraction, eliminates a
23 crime or infraction, or changes the penalty for a crime or infraction,
24 within the meaning of Section 17556 of the Government Code, or
25 changes the definition of a crime within the meaning of Section 6
26 of Article XIII B of the California Constitution.

27
28
29 **CORRECTIONS:** _____
30 **Heading—Line 4.**
31 _____