

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1897**

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**Introduced by Assembly Member Campos**

February 22, 2012

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An act to amend ~~Section~~ *Sections 65040.2 and 65302* of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Campos. Land use: general plan: ~~healthy food element.~~ *access to healthy food.*

The

(1) *The Planning and Zoning Law* requires that a city or county general plan consist of various elements, including, among other things, a land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land, as specified.

This bill would additionally require the land use element to identify food deserts, as defined, within the city or county and consider zoning changes to mitigate those areas currently designated as food deserts.

(2) *Existing law requires the Office of Planning and Research to implement various long-range planning and research policies and goals that are intended to shape statewide development patterns and significantly influence the quality of the state's environment and, in*

connection with those responsibilities, to adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans.

This bill would authorize the office to prepare and amend the guidelines to contain advice, developed in consultation with the Department of Food and Agriculture, for improving the health of Californians by increasing access to healthy affordable food.

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

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

1 SECTION 1. The Legislature finds and declares that in certain  
2 parts of California there exists a shortage of fresh, healthy, and  
3 affordable food, especially for persons and families of low and  
4 moderate income, and that there is an immediate need to encourage  
5 the access ~~of~~ to healthy food for persons residing in California,  
6 not only through the provision of grocery stores, farmers markets,  
7 urban agriculture, mobile vendors, or other methods, but also  
8 through changes in law designed to do all of the following:

9 (a) Expedite the local and state residential development process  
10 locating new or rehabilitated grocery stores in food deserts.

11 (b) Ensure that local governments zone sufficient land to include  
12 grocery stores and urban agriculture.

13 (c) Ensure that local governments make a diligent effort through  
14 the administration of land use and development controls and the  
15 provision of regulatory concessions and incentives to significantly  
16 reduce barriers to grocery store development and thereby facilitate  
17 the development of affordable and accessible food.

18 SEC. 2. Section 65040.2 of the Government Code is amended  
19 to read:

20 65040.2. (a) In connection with its responsibilities under  
21 subdivision (l) of Section 65040, the office shall develop and adopt  
22 guidelines for the preparation of and the content of the mandatory  
23 elements required in city and county general plans by Article 5  
24 (commencing with Section 65300) of Chapter 3. For purposes of  
25 this section, the guidelines prepared pursuant to Section 50459 of  
26 the Health and Safety Code shall be the guidelines for the housing  
27 element required by Section 65302. In the event that additional  
28 elements are hereafter required in city and county general plans

1 by Article 5 (commencing with Section 65300) of Chapter 3, the  
2 office shall adopt guidelines for those elements within six months  
3 of the effective date of the legislation requiring those additional  
4 elements.

5 (b) The office may request from each state department and  
6 agency, as it deems appropriate, and the department or agency  
7 shall provide, technical assistance in readopting, amending, or  
8 repealing the guidelines.

9 (c) The guidelines shall be advisory to each city and county in  
10 order to provide assistance in preparing and maintaining their  
11 respective general plans.

12 (d) The guidelines shall contain the guidelines for addressing  
13 environmental justice matters developed pursuant to Section  
14 65040.12.

15 (e) The guidelines shall contain advice including  
16 recommendations for best practices to allow for collaborative land  
17 use planning of adjacent civilian and military lands and facilities.  
18 The guidelines shall encourage enhanced land use compatibility  
19 between civilian lands and any adjacent or nearby military facilities  
20 through the examination of potential impacts upon one another.

21 (f) The guidelines shall contain advice for addressing the effects  
22 of civilian development on military readiness activities carried out  
23 on all of the following:

- 24 (1) Military installations.
- 25 (2) Military operating areas.
- 26 (3) Military training areas.
- 27 (4) Military training routes.
- 28 (5) Military airspace.
- 29 (6) Other territory adjacent to those installations and areas.

30 (g) By March 1, 2005, the guidelines shall contain advice,  
31 developed in consultation with the Native American Heritage  
32 Commission, for consulting with California Native American tribes  
33 for all of the following:

- 34 (1) The preservation of, or the mitigation of impacts to, places,  
35 features, and objects described in Sections 5097.9 and 5097.993  
36 of the Public Resources Code.
- 37 (2) Procedures for identifying through the Native American  
38 Heritage Commission the appropriate California Native American  
39 tribes.

1 (3) Procedures for continuing to protect the confidentiality of  
2 information concerning the specific identity, location, character,  
3 and use of those places, features, and objects.

4 (4) Procedures to facilitate voluntary landowner participation  
5 to preserve and protect the specific identity, location, character,  
6 and use of those places, features, and objects.

7 (h) Commencing January 1, 2009, but no later than January 1,  
8 2014, upon the next revision of the guidelines pursuant to  
9 subdivision (i), the office shall prepare or amend guidelines for a  
10 legislative body to accommodate the safe and convenient travel  
11 of users of streets, roads, and highways in a manner that is suitable  
12 to the rural, suburban, or urban context of the general plan, pursuant  
13 to subdivision (b) of Section 65302.

14 (1) In developing guidelines, the office shall consider how  
15 appropriate accommodation varies depending on its transportation  
16 and land use context, including urban, suburban, or rural  
17 environments.

18 (2) The office may consult with leading transportation experts  
19 including, but not limited to, bicycle transportation planners,  
20 pedestrian planners, public transportation planners, local air quality  
21 management districts, and disability and senior mobility planners.

22 (i) (1) *Upon the next revision of the guidelines pursuant to*  
23 *subdivision (j), the office may prepare and amend the guidelines*  
24 *to contain advice, developed in consultation with the Department*  
25 *of Food and Agriculture, for improving the health of Californians*  
26 *by increasing access to healthy affordable food. This advice may*  
27 *include, but is not limited to, information on how a city or county*  
28 *may choose, if relevant, to address the following issues:*

29 (A) *Access to full and discount grocery stores.*

30 (B) *Access to urban farming.*

31 (C) *Access to community or school gardens.*

32 (D) *Access to farmers' markets.*

33 (E) *Access to affordable food, including food retail spaces that*  
34 *accept CalFresh benefits received under the federal Supplemental*  
35 *Nutrition Assistance Program of the federal Food and Nutrition*  
36 *Act of 2008 pursuant to Chapter 10 (commencing with Section*  
37 *18900) of Part 6 of Division 9 of the Welfare and Institutions Code,*  
38 *or benefits received under the California Special Supplemental*  
39 *Food Program for Women, Infants, and Children, as provided for*

1 *in Article 2 (commencing with Section 123275) of Chapter 1 of*  
2 *Part 2 of Division 106 of the Health and Safety Code.*

3 *(F) Access to transportation near grocery stores, including, but*  
4 *not limited to, bus stops or other mass transportation stops near*  
5 *the grocery store, free or low-cost shuttles to and from the grocery*  
6 *store, taxi vouchers, and carpool programs.*

7 *(2) The information included in the next revision of the*  
8 *guidelines pursuant to this subdivision shall be made applicable*  
9 *to a city or county only at the discretion of its legislative body.*

10 ~~(i)~~

11 *(j) The office shall provide for regular review and revision of*  
12 *the guidelines established pursuant to this section.*

13 ~~SEC. 2.~~

14 *SEC. 3.* Section 65302 of the Government Code is amended  
15 to read:

16 65302. The general plan shall consist of a statement of  
17 development policies and shall include a diagram or diagrams and  
18 text setting forth objectives, principles, standards, and plan  
19 proposals. The plan shall include the following elements:

20 (a) A land use element that designates the proposed general  
21 distribution and general location and extent of the uses of the land  
22 for housing, business, industry, open space, including agriculture,  
23 natural resources, recreation, and enjoyment of scenic beauty,  
24 education, public buildings and grounds, solid and liquid waste  
25 disposal facilities, and other categories of public and private uses  
26 of land. The location and designation of the extent of the uses of  
27 the land for public and private uses shall consider the identification  
28 of land and natural resources pursuant to paragraph (3) of  
29 subdivision (d). The land use element shall include a statement of  
30 the standards of population density and building intensity  
31 recommended for the various districts and other territory covered  
32 by the plan. The land use element shall identify and annually  
33 review those areas covered by the plan that are subject to flooding  
34 identified by flood plain mapping prepared by the Federal  
35 Emergency Management Agency (FEMA) or the Department of  
36 Water Resources. The land use element shall also do all of the  
37 following:

38 (1) Designate in a land use category that provides for timber  
39 production those parcels of real property zoned for timberland  
40 production pursuant to the California Timberland Productivity Act

1 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1  
2 of Division 1 of Title 5).

3 (2) Consider the impact of new growth on military readiness  
4 activities carried out on military bases, installations, and operating  
5 and training areas, when proposing zoning ordinances or  
6 designating land uses covered by the general plan for land, or other  
7 territory adjacent to military facilities, or underlying designated  
8 military aviation routes and airspace.

9 (A) In determining the impact of new growth on military  
10 readiness activities, information provided by military facilities  
11 shall be considered. Cities and counties shall address military  
12 impacts based on information from the military and other sources.

13 (B) The following definitions govern this paragraph:

14 (i) “Military readiness activities” mean all of the following:

15 (I) Training, support, and operations that prepare the men and  
16 women of the military for combat.

17 (II) Operation, maintenance, and security of any military  
18 installation.

19 (III) Testing of military equipment, vehicles, weapons, and  
20 sensors for proper operation or suitability for combat use.

21 (ii) “Military installation” means a base, camp, post, station,  
22 yard, center, homeport facility for any ship, or other activity under  
23 the jurisdiction of the United States Department of Defense as  
24 defined in paragraph (1) of subsection (e) of Section 2687 of Title  
25 10 of the United States Code.

26 (3) (A) At the next update of the land use element following  
27 the effective date of the act that added this paragraph, identify food  
28 deserts within the city or county and consider zoning changes to  
29 mitigate those areas currently designated as food deserts.

30 (B) For purposes of this paragraph, the following terms have  
31 the following meanings:

32 (i) “Food desert” means a low-income census tract where at  
33 least 500 people or at least 33 percent, whichever is less, of the  
34 population within the census tract reside more than two miles from  
35 a supermarket or large grocery store.

36 (ii) “Low-income census tract” means any census tract where  
37 either of the following apply:

38 (I) The poverty rate for that census tract is at least 20 percent.

39 (II) For census tracts not located within a metropolitan area, the  
40 median family income for the tract does not exceed 80 percent of

1 statewide median family income, or for tracts located within a  
2 metropolitan area, the median family income for the tract does not  
3 exceed 80 percent of the greater of statewide median family income  
4 or the metropolitan area median family income.

5 (iii) “Supermarket” means a retailer that has annual sales of at  
6 least two million dollars (\$2,000,000) and contains all the major  
7 food departments found in a traditional supermarket, including,  
8 but not limited to, fresh meat and poultry, produce, dairy, dry and  
9 packaged foods, and frozen foods.

10 (b) (1) A circulation element consisting of the general location  
11 and extent of existing and proposed major thoroughfares,  
12 transportation routes, terminals, any military airports and ports,  
13 and other local public utilities and facilities, all correlated with the  
14 land use element of the plan.

15 (2) (A) Commencing January 1, 2011, upon any substantive  
16 revision of the circulation element, the legislative body shall  
17 modify the circulation element to plan for a balanced, multimodal  
18 transportation network that meets the needs of all users of streets,  
19 roads, and highways for safe and convenient travel in a manner  
20 that is suitable to the rural, suburban, or urban context of the  
21 general plan.

22 (B) For purposes of this paragraph, “users of streets, roads, and  
23 highways” means bicyclists, children, persons with disabilities,  
24 motorists, movers of commercial goods, pedestrians, users of public  
25 transportation, and seniors.

26 (c) A housing element as provided in Article 10.6 (commencing  
27 with Section 65580).

28 (d) (1) A conservation element for the conservation,  
29 development, and utilization of natural resources including water  
30 and its hydraulic force, forests, soils, rivers and other waters,  
31 harbors, fisheries, wildlife, minerals, and other natural resources.  
32 The conservation element shall consider the effect of development  
33 within the jurisdiction, as described in the land use element, on  
34 natural resources located on public lands, including military  
35 installations. That portion of the conservation element including  
36 waters shall be developed in coordination with any countywide  
37 water agency and with all district and city agencies, including  
38 flood management, water conservation, or groundwater agencies  
39 that have developed, served, controlled, managed, or conserved  
40 water of any type for any purpose in the county or city for which

1 the plan is prepared. Coordination shall include the discussion and  
2 evaluation of any water supply and demand information described  
3 in Section 65352.5, if that information has been submitted by the  
4 water agency to the city or county.

5 (2) The conservation element may also cover all of the  
6 following:

7 (A) The reclamation of land and waters.

8 (B) Prevention and control of the pollution of streams and other  
9 waters.

10 (C) Regulation of the use of land in stream channels and other  
11 areas required for the accomplishment of the conservation plan.

12 (D) Prevention, control, and correction of the erosion of soils,  
13 beaches, and shores.

14 (E) Protection of watersheds.

15 (F) The location, quantity and quality of the rock, sand and  
16 gravel resources.

17 (3) Upon the next revision of the housing element on or after  
18 January 1, 2009, the conservation element shall identify rivers,  
19 creeks, streams, flood corridors, riparian habitats, and land that  
20 may accommodate floodwater for purposes of groundwater  
21 recharge and stormwater management.

22 (e) An open-space element as provided in Article 10.5  
23 (commencing with Section 65560).

24 (f) (1) A noise element that shall identify and appraise noise  
25 problems in the community. The noise element shall recognize the  
26 guidelines established by the Office of Noise Control and shall  
27 analyze and quantify, to the extent practicable, as determined by  
28 the legislative body, current and projected noise levels for all of  
29 the following sources:

30 (A) Highways and freeways.

31 (B) Primary arterials and major local streets.

32 (C) Passenger and freight online railroad operations and ground  
33 rapid transit systems.

34 (D) Commercial, general aviation, heliport, helistop, and military  
35 airport operations, aircraft overflights, jet engine test stands, and  
36 all other ground facilities and maintenance functions related to  
37 airport operation.

38 (E) Local industrial plants, including, but not limited to, railroad  
39 classification yards.

1 (F) Other ground stationary noise sources, including, but not  
2 limited to, military installations, identified by local agencies as  
3 contributing to the community noise environment.

4 (2) Noise contours shall be shown for all of these sources and  
5 stated in terms of community noise equivalent level (CNEL) or  
6 day-night average level ( $L_{dn}$ ). The noise contours shall be prepared  
7 on the basis of noise monitoring or following generally accepted  
8 noise modeling techniques for the various sources identified in  
9 paragraphs (1) to (6), inclusive.

10 (3) The noise contours shall be used as a guide for establishing  
11 a pattern of land uses in the land use element that minimizes the  
12 exposure of community residents to excessive noise.

13 (4) The noise element shall include implementation measures  
14 and possible solutions that address existing and foreseeable noise  
15 problems, if any. The adopted noise element shall serve as a  
16 guideline for compliance with the state's noise insulation standards.

17 (g) (1) A safety element for the protection of the community  
18 from any unreasonable risks associated with the effects of  
19 seismically induced surface rupture, ground shaking, ground  
20 failure, tsunami, seiche, and dam failure; slope instability leading  
21 to mudslides and landslides; subsidence, liquefaction, and other  
22 seismic hazards identified pursuant to Chapter 7.8 (commencing  
23 with Section 2690) of Division 2 of the Public Resources Code,  
24 and other geologic hazards known to the legislative body; flooding;  
25 and wild land and urban fires. The safety element shall include  
26 mapping of known seismic and other geologic hazards. It shall  
27 also address evacuation routes, military installations, peakload  
28 water supply requirements, and minimum road widths and  
29 clearances around structures, as those items relate to identified fire  
30 and geologic hazards.

31 (2) The safety element, upon the next revision of the housing  
32 element on or after January 1, 2009, shall also do the following:

33 (A) Identify information regarding flood hazards, including,  
34 but not limited to, the following:

35 (i) Flood hazard zones. As used in this subdivision, "flood  
36 hazard zone" means an area subject to flooding that is delineated  
37 as either a special hazard area or an area of moderate or minimal  
38 hazard on an official flood insurance rate map issued by the Federal  
39 Emergency Management Agency. The identification of a flood  
40 hazard zone does not imply that areas outside the flood hazard

- 1 zones or uses permitted within flood hazard zones will be free  
2 from flooding or flood damage.
- 3 (ii) National Flood Insurance Program maps published by  
4 FEMA.
- 5 (iii) Information about flood hazards that is available from the  
6 United States Army Corps of Engineers.
- 7 (iv) Designated floodway maps that are available from the  
8 Central Valley Flood Protection Board.
- 9 (v) Dam failure inundation maps prepared pursuant to Section  
10 8589.5 that are available from the California Emergency  
11 Management Agency.
- 12 (vi) Awareness Floodplain Mapping Program maps and 200-year  
13 flood plain maps that are or may be available from, or accepted  
14 by, the Department of Water Resources.
- 15 (vii) Maps of levee protection zones.
- 16 (viii) Areas subject to inundation in the event of the failure of  
17 project or nonproject levees or floodwalls.
- 18 (ix) Historical data on flooding, including locally prepared maps  
19 of areas that are subject to flooding, areas that are vulnerable to  
20 flooding after wildfires, and sites that have been repeatedly  
21 damaged by flooding.
- 22 (x) Existing and planned development in flood hazard zones,  
23 including structures, roads, utilities, and essential public facilities.
- 24 (xi) Local, state, and federal agencies with responsibility for  
25 flood protection, including special districts and local offices of  
26 emergency services.
- 27 (B) Establish a set of comprehensive goals, policies, and  
28 objectives based on the information identified pursuant to  
29 subparagraph (A), for the protection of the community from the  
30 unreasonable risks of flooding, including, but not limited to:
- 31 (i) Avoiding or minimizing the risks of flooding to new  
32 development.
- 33 (ii) Evaluating whether new development should be located in  
34 flood hazard zones, and identifying construction methods or other  
35 methods to minimize damage if new development is located in  
36 flood hazard zones.
- 37 (iii) Maintaining the structural and operational integrity of  
38 essential public facilities during flooding.
- 39 (iv) Locating, when feasible, new essential public facilities  
40 outside of flood hazard zones, including hospitals and health care

1 facilities, emergency shelters, fire stations, emergency command  
2 centers, and emergency communications facilities or identifying  
3 construction methods or other methods to minimize damage if  
4 these facilities are located in flood hazard zones.

5 (v) Establishing cooperative working relationships among public  
6 agencies with responsibility for flood protection.

7 (C) Establish a set of feasible implementation measures designed  
8 to carry out the goals, policies, and objectives established pursuant  
9 to subparagraph (B).

10 (3) After the initial revision of the safety element pursuant to  
11 paragraph (2), upon each revision of the housing element, the  
12 planning agency shall review and, if necessary, revise the safety  
13 element to identify new information that was not available during  
14 the previous revision of the safety element.

15 (4) Cities and counties that have flood plain management  
16 ordinances that have been approved by FEMA that substantially  
17 comply with this section, or have substantially equivalent  
18 provisions to this subdivision in their general plans, may use that  
19 information in the safety element to comply with this subdivision,  
20 and shall summarize and incorporate by reference into the safety  
21 element the other general plan provisions or the flood plain  
22 ordinance, specifically showing how each requirement of this  
23 subdivision has been met.

24 (5) Prior to the periodic review of its general plan and prior to  
25 preparing or revising its safety element, each city and county shall  
26 consult the California Geological Survey of the Department of  
27 Conservation, the Central Valley Flood Protection Board, if the  
28 city or county is located within the boundaries of the Sacramento  
29 and San Joaquin Drainage District, as set forth in Section 8501 of  
30 the Water Code, and the California Emergency Management  
31 Agency for the purpose of including information known by and  
32 available to the department, the agency, and the board required by  
33 this subdivision.

34 (6) To the extent that a county's safety element is sufficiently  
35 detailed and contains appropriate policies and programs for  
36 adoption by a city, a city may adopt that portion of the county's  
37 safety element that pertains to the city's planning area in  
38 satisfaction of the requirement imposed by this subdivision.

O