

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY MAY 5, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2222

Introduced by Assembly Member Nazarian

February 20, 2014

An act to amend Sections 65915 and 65915.5 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2222, as amended, Nazarian. Housing density bonus.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

Existing law requires continued affordability for 30 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus.

This bill instead would require continued affordability for 55 years or longer, as specified, of all very low and low-income *rental* units that qualified an applicant for a density bonus. *This bill would also include*

very low and low-income persons among the initial occupants of for-sale units. This bill also would prohibit an applicant from receiving a density bonus unless the proposed housing development would ~~replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and the proposed development would either include the additional required set aside of affordable units according to specified percentages or consist in its entirety of affordable units, for units subject to certain affordability requirements that were occupied by qualifying persons on the date of application, provide at least the same number of units of equivalent size or type, or both, to be made available for rent at affordable housing costs to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For those subject types of units that have been vacated or demolished at the time of application. This bill would condition a density bonus upon at least the same number of units of equivalent size or type, or both, as existed at the highpoint in the preceding 5 years being made available for rent at affordable housing costs to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known.~~

Existing law also requires a city, county, or city and county to grant a density bonus or other incentives, as specified, when an applicant for approval to convert apartments to a condominium project agrees, among other things, to provide a specified percentage of units for ~~low or moderate income~~ low- or moderate-income persons and families or for lower income households, as defined.

This bill also would prohibit an applicant from receiving a density bonus unless the proposed condominium project would replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and the proposed development would either include the additional required set aside of affordable units according to specified percentages or consist entirely of affordable units.

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

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

- 1 SECTION 1. Section 65915 of the Government Code is
- 2 amended to read:

1 65915. (a) When an applicant seeks a density bonus for a
2 housing development within, or for the donation of land for housing
3 within, the jurisdiction of a city, county, or city and county, that
4 local government shall provide the applicant with incentives or
5 concessions for the production of housing units and child care
6 facilities as prescribed in this section. All cities, counties, or cities
7 and counties shall adopt an ordinance that specifies how
8 compliance with this section will be implemented. Failure to adopt
9 an ordinance shall not relieve a city, county, or city and county
10 from complying with this section.

11 (b) (1) A city, county, or city and county shall grant one density
12 bonus, the amount of which shall be as specified in subdivision
13 (f), and incentives or concessions, as described in subdivision (d),
14 when an applicant for a housing development seeks and agrees to
15 construct a housing development, excluding any units permitted
16 by the density bonus awarded pursuant to this section, that will
17 contain at least any one of the following:

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

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

24 (C) A senior citizen housing development, as defined in Sections
25 51.3 and 51.12 of the Civil Code, or mobilehome park that limits
26 residency based on age requirements for housing for older persons
27 pursuant to Section 798.76 or 799.5 of the Civil Code.

28 (D) Ten percent of the total dwelling units in a common interest
29 development as defined in Section 4100 of the Civil Code for
30 persons and families of moderate income, as defined in Section
31 50093 of the Health and Safety Code, provided that all units in the
32 development are offered to the public for purchase.

33 (2) For purposes of calculating the amount of the density bonus
34 pursuant to subdivision (f), the applicant who requests a density
35 bonus pursuant to this subdivision shall elect whether the bonus
36 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)
37 of paragraph (1).

38 (3) For the purposes of this section, “total units” or “total
39 dwelling units” does not include units added by a density bonus

1 awarded pursuant to this section or any local law granting a greater
 2 density bonus.

3 (c) (1) An applicant shall agree to, and the city, county, or city
 4 and county shall ensure, continued affordability of all ~~low- and~~
 5 ~~very low income~~ *very low and low-income rental* units that
 6 qualified the applicant for the award of the density bonus for 55
 7 years or a longer period of time if required by the construction or
 8 mortgage financing assistance program, mortgage insurance
 9 program, or rental subsidy program. Rents for the lower income
 10 density bonus units shall be set at an affordable rent as defined in
 11 Section 50053 of the Health and Safety Code. ~~Owner-occupied~~
 12 ~~units shall be available at an affordable housing cost as defined in~~
 13 ~~Section 50052.5 of the Health and Safety Code.~~

14 (2) An applicant shall agree to, and the city, county, or city and
 15 county shall ensure that, the initial occupant of ~~the~~
 16 ~~moderate-income units that are directly related to the receipt of~~
 17 ~~the density bonus in the common interest development, as defined~~
 18 ~~in Section 4100 of the Civil Code, all for-sale units that qualified~~
 19 *the applicant for the award of the density bonus* are persons and
 20 families of *very low, low, or moderate income*, as ~~defined in~~
 21 ~~Section 50093 of the Health and Safety Code~~ *required*, and that
 22 the units are offered at an affordable housing cost, as that cost is
 23 defined in Section 50052.5 of the Health and Safety Code. The
 24 local government shall enforce an equity sharing agreement, unless
 25 it is in conflict with the requirements of another public funding
 26 source or law. The following apply to the equity sharing agreement:

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

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

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

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

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

25 (A)
26 (i) The proposed housing development includes the additional
27 ~~required~~
28 ~~set required~~ set aside of affordable units at the percentages set
29 forth in subdivision (b).

30 (B)
31 (ii) Each unit in the development is affordable to, and occupied
32 by, either a lower or very low income household.

33 (B) For the purposes of this paragraph, “replace” shall mean
34 either of the following:

35 (i) If any dwelling units described in subparagraph (A) are
36 occupied on the date of application, the proposed housing
37 development shall provide at least the same number of units of
38 equivalent size or type, or both, to be made available for rent at
39 affordable housing costs to, and occupied by, persons and families
40 in the same or lower income category as those households in

1 occupancy. For unoccupied dwelling units described in this
2 paragraph in a development with occupied units, the proposed
3 housing development shall provide units of equivalent size or type,
4 or both, to be made available for rent at affordable housing costs
5 to, and occupied by, persons and families in the same or lower
6 income category in the same proportion of affordability as the
7 occupied units. All replacement calculations resulting in fractional
8 units shall be rounded up to the next whole number. These units
9 shall be subject to a recorded affordability restriction for at least
10 55 years.

11 (ii) If all dwelling units described in subparagraph (A) have
12 been vacated or demolished within the five-year period preceding
13 the application, the proposed housing development shall provide
14 at least the same number of units of equivalent size or type, or
15 both, as existed at the highpoint of those units in the five-year
16 period preceding the application to be made available for rent at
17 affordable housing costs to, and occupied by, persons and families
18 in the same or lower income category as those persons and families
19 in occupancy at that time, if known. If the incomes of the persons
20 and families in occupancy at the highpoint is not known, then
21 one-half of the required units shall be made available for rent at
22 affordable housing costs to, and occupied by, very low income
23 persons and families and one-half of the required units shall be
24 made available for rent at affordable housing costs to, and
25 occupied by, low-income persons and families. These units shall
26 be subject to a recorded affordability restriction for at least 55
27 years.

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

36 (A) The concession or incentive is not required in order to
37 provide for affordable housing costs, as defined in Section 50052.5
38 of the Health and Safety Code, or for rents for the targeted units
39 to be set as specified in subdivision (c).

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

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

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

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

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

23 (C) Three incentives or concessions for projects that include at
24 least 30 percent of the total units for lower income households, at
25 least 15 percent for very low income households, or at least 30
26 percent for persons and families of moderate income in a common
27 interest development.

28 (3) The applicant may initiate judicial proceedings if the city,
29 county, or city and county refuses to grant a requested density
30 bonus, incentive, or concession. If a court finds that the refusal to
31 grant a requested density bonus, incentive, or concession is in
32 violation of this section, the court shall award the plaintiff
33 reasonable attorney's fees and costs of suit. Nothing in this
34 subdivision shall be interpreted to require a local government to
35 grant an incentive or concession that has a specific, adverse impact,
36 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
37 upon health, safety, or the physical environment, and for which
38 there is no feasible method to satisfactorily mitigate or avoid the
39 specific adverse impact. Nothing in this subdivision shall be
40 interpreted to require a local government to grant an incentive or

1 concession that would have an adverse impact on any real property
2 that is listed in the California Register of Historical Resources.
3 The city, county, or city and county shall establish procedures for
4 carrying out this section, that shall include legislative body
5 approval of the means of compliance with this section.

6 (e) (1) In no case may a city, county, or city and county apply
7 any development standard that will have the effect of physically
8 precluding the construction of a development meeting the criteria
9 of subdivision (b) at the densities or with the concessions or
10 incentives permitted by this section. An applicant may submit to
11 a city, county, or city and county a proposal for the waiver or
12 reduction of development standards that will have the effect of
13 physically precluding the construction of a development meeting
14 the criteria of subdivision (b) at the densities or with the
15 concessions or incentives permitted under this section, and may
16 request a meeting with the city, county, or city and county. If a
17 court finds that the refusal to grant a waiver or reduction of
18 development standards is in violation of this section, the court
19 shall award the plaintiff reasonable attorney's fees and costs of
20 suit. Nothing in this subdivision shall be interpreted to require a
21 local government to waive or reduce development standards if the
22 waiver or reduction would have a specific, adverse impact, as
23 defined in paragraph (2) of subdivision (d) of Section 65589.5,
24 upon health, safety, or the physical environment, and for which
25 there is no feasible method to satisfactorily mitigate or avoid the
26 specific adverse impact. Nothing in this subdivision shall be
27 interpreted to require a local government to waive or reduce
28 development standards that would have an adverse impact on any
29 real property that is listed in the California Register of Historical
30 Resources, or to grant any waiver or reduction that would be
31 contrary to state or federal law.

32 (2) A proposal for the waiver or reduction of development
33 standards pursuant to this subdivision shall neither reduce nor
34 increase the number of incentives or concessions to which the
35 applicant is entitled pursuant to subdivision (d).

36 (f) For the purposes of this chapter, "density bonus" means a
37 density increase over the otherwise maximum allowable residential
38 density as of the date of application by the applicant to the city,
39 county, or city and county. The applicant may elect to accept a
40 lesser percentage of density bonus. The amount of density bonus

1 to which the applicant is entitled shall vary according to the amount
2 by which the percentage of affordable housing units exceeds the
3 percentage established in subdivision (b).

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

7	Percentage Low-Income Units	Percentage Density Bonus
10	10	20
11	11	21.5
12	12	23
13	13	24.5
14	14	26
15	15	27.5
16	17	30.5
17	18	32
18	19	33.5
19	20	35

20
21 (2) For housing developments meeting the criteria of
22 subparagraph (B) of paragraph (1) of subdivision (b), the density
23 bonus shall be calculated as follows:

24	Percentage Very Low Income Units	Percentage Density Bonus
26	5	20
27	6	22.5
28	7	25
29	8	27.5
30	9	30
31	10	32.5
32	11	35

33
34 (3) For housing developments meeting the criteria of
35 subparagraph (C) of paragraph (1) of subdivision (b), the density
36 bonus shall be 20 percent of the number of senior housing units.

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

	Percentage Moderate-Income Units	Percentage Density Bonus
1		
2	10	5
3	11	6
4	12	7
5	13	8
6	14	9
7	15	10
8	16	11
9	17	12
10	18	13
11	19	14
12	20	15
13	21	16
14	22	17
15	23	18
16	24	19
17	25	20
18	26	21
19	27	22
20	28	23
21	29	24
22	30	25
23	31	26
24	32	27
25	33	28
26	34	29
27	35	30
28	36	31
29	37	32
30	38	33
31	39	34
32	40	35
33		

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

39 (g) (1) When an applicant for a tentative subdivision map,
 40 parcel map, or other residential development approval donates

1 land to a city, county, or city and county in accordance with this
 2 subdivision, the applicant shall be entitled to a 15-percent increase
 3 above the otherwise maximum allowable residential density for
 4 the entire development, as follows:

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

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

- 1 (A) The applicant donates and transfers the land no later than
2 the date of approval of the final subdivision map, parcel map, or
3 residential development application.
- 4 (B) The developable acreage and zoning classification of the
5 land being transferred are sufficient to permit construction of units
6 affordable to very low income households in an amount not less
7 than 10 percent of the number of residential units of the proposed
8 development.
- 9 (C) The transferred land is at least one acre in size or of
10 sufficient size to permit development of at least 40 units, has the
11 appropriate general plan designation, is appropriately zoned with
12 appropriate development standards for development at the density
13 described in paragraph (3) of subdivision (c) of Section 65583.2,
14 and is or will be served by adequate public facilities and
15 infrastructure.
- 16 (D) The transferred land shall have all of the permits and
17 approvals, other than building permits, necessary for the
18 development of the very low income housing units on the
19 transferred land, not later than the date of approval of the final
20 subdivision map, parcel map, or residential development
21 application, except that the local government may subject the
22 proposed development to subsequent design review to the extent
23 authorized by subdivision (i) of Section 65583.2 if the design is
24 not reviewed by the local government prior to the time of transfer.
- 25 (E) The transferred land and the affordable units shall be subject
26 to a deed restriction ensuring continued affordability of the units
27 consistent with paragraphs (1) and (2) of subdivision (c), which
28 shall be recorded on the property at the time of the transfer.
- 29 (F) The land is transferred to the local agency or to a housing
30 developer approved by the local agency. The local agency may
31 require the applicant to identify and transfer the land to the
32 developer.
- 33 (G) The transferred land shall be within the boundary of the
34 proposed development or, if the local agency agrees, within
35 one-quarter mile of the boundary of the proposed development.
- 36 (H) A proposed source of funding for the very low income units
37 shall be identified not later than the date of approval of the final
38 subdivision map, parcel map, or residential development
39 application.

1 (h) (1) When an applicant proposes to construct a housing
2 development that conforms to the requirements of subdivision (b)
3 and includes a child care facility that will be located on the
4 premises of, as part of, or adjacent to, the project, the city, county,
5 or city and county shall grant either of the following:

6 (A) An additional density bonus that is an amount of square
7 feet of residential space that is equal to or greater than the amount
8 of square feet in the child care facility.

9 (B) An additional concession or incentive that contributes
10 significantly to the economic feasibility of the construction of the
11 child care facility.

12 (2) The city, county, or city and county shall require, as a
13 condition of approving the housing development, that the following
14 occur:

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

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

26 (3) Notwithstanding any requirement of this subdivision, a city,
27 county, or city and county shall not be required to provide a density
28 bonus or concession for a child care facility if it finds, based upon
29 substantial evidence, that the community has adequate child care
30 facilities.

31 (4) “Child care facility,” as used in this section, means a child
32 day care facility other than a family day care home, including, but
33 not limited to, infant centers, preschools, extended day care
34 facilities, and schoolage child care centers.

35 (i) “Housing development,” as used in this section, means a
36 development project for five or more residential units. For the
37 purposes of this section, “housing development” also includes a
38 subdivision or common interest development, as defined in Section
39 4100 of the Civil Code, approved by a city, county, or city and
40 county and consists of residential units or unimproved residential

1 lots and either a project to substantially rehabilitate and convert
2 an existing commercial building to residential use or the substantial
3 rehabilitation of an existing multifamily dwelling, as defined in
4 subdivision (d) of Section 65863.4, where the result of the
5 rehabilitation would be a net increase in available residential units.
6 For the purpose of calculating a density bonus, the residential units
7 shall be on contiguous sites that are the subject of one development
8 application, but do not have to be based upon individual
9 subdivision maps or parcels. The density bonus shall be permitted
10 in geographic areas of the housing development other than the
11 areas where the units for the lower income households are located.

12 (j) (1) The granting of a concession or incentive shall not be
13 interpreted, in and of itself, to require a general plan amendment,
14 local coastal plan amendment, zoning change, or other discretionary
15 approval. This provision is declaratory of existing law.

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

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

22 (1) A reduction in site development standards or a modification
23 of zoning code requirements or architectural design requirements
24 that exceed the minimum building standards approved by the
25 California Building Standards Commission as provided in Part 2.5
26 (commencing with Section 18901) of Division 13 of the Health
27 and Safety Code, including, but not limited to, a reduction in
28 setback and square footage requirements and in the ratio of
29 vehicular parking spaces that would otherwise be required that
30 results in identifiable, financially sufficient, and actual cost
31 reductions.

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

38 (3) Other regulatory incentives or concessions proposed by the
39 developer or the city, county, or city and county that result in
40 identifiable, financially sufficient, and actual cost reductions.

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

5 (m) This section shall not be construed to supersede or in any
6 way alter or lessen the effect or application of the California
7 Coastal Act of 1976 (Division 20 (commencing with Section
8 30000) of the Public Resources Code).

9 (n) If permitted by local ordinance, nothing in this section shall
10 be construed to prohibit a city, county, or city and county from
11 granting a density bonus greater than what is described in this
12 section for a development that meets the requirements of this
13 section or from granting a proportionately lower density bonus
14 than what is required by this section for developments that do not
15 meet the requirements of this section.

16 (o) For purposes of this section, the following definitions shall
17 apply:

18 (1) "Development standard" includes a site or construction
19 condition, including, but not limited to, a height limitation, a
20 setback requirement, a floor area ratio, an onsite open-space
21 requirement, or a parking ratio that applies to a residential
22 development pursuant to any ordinance, general plan element,
23 specific plan, charter, or other local condition, law, policy,
24 resolution, or regulation.

25 (2) "Maximum allowable residential density" means the density
26 allowed under the zoning ordinance and land use element of the
27 general plan, or if a range of density is permitted, means the
28 maximum allowable density for the specific zoning range and land
29 use element of the general plan applicable to the project. Where
30 the density allowed under the zoning ordinance is inconsistent
31 with the density allowed under the land use element of the general
32 plan, the general plan density shall prevail.

33 (p) (1) Upon the request of the developer, no city, county, or
34 city and county shall require a vehicular parking ratio, inclusive
35 of handicapped and guest parking, of a development meeting the
36 criteria of subdivision (b), that exceeds the following ratios:

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

38 (B) Two to three bedrooms: two onsite parking spaces.

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

1 (2) If the total number of parking spaces required for a
 2 development is other than a whole number, the number shall be
 3 rounded up to the next whole number. For purposes of this
 4 subdivision, a development may provide “onsite parking” through
 5 tandem parking or uncovered parking, but not through onstreet
 6 parking.

7 (3) This subdivision shall apply to a development that meets
 8 the requirements of subdivision (b) but only at the request of the
 9 applicant. An applicant may request parking incentives or
 10 concessions beyond those provided in this subdivision pursuant
 11 to subdivision (d).

12 SEC. 2. Section 65915.5 of the Government Code is amended
 13 to read:

14 65915.5. (a) When an applicant for approval to convert
 15 apartments to a condominium project agrees to provide at least 33
 16 percent of the total units of the proposed condominium project to
 17 persons and families of low or moderate income as defined in
 18 Section 50093 of the Health and Safety Code, or 15 percent of the
 19 total units of the proposed condominium project to lower income
 20 households as defined in Section 50079.5 of the Health and Safety
 21 Code, and agrees to pay for the reasonably necessary administrative
 22 costs incurred by a city, county, or city and county pursuant to this
 23 section, the city, county, or city and county shall either (1) grant
 24 a density bonus or (2) provide other incentives of equivalent
 25 financial value. A city, county, or city and county may place such
 26 reasonable conditions on the granting of a density bonus or other
 27 incentives of equivalent financial value as it finds appropriate,
 28 including, but not limited to, conditions which assure continued
 29 affordability of units to subsequent purchasers who are persons
 30 and families of low and moderate income or lower income
 31 households.

32 (b) For purposes of this section, “density bonus” means an
 33 increase in units of 25 percent over the number of apartments, to
 34 be provided within the existing structure or structures proposed
 35 for conversion.

36 (c) For purposes of this section, “other incentives of equivalent
 37 financial value” shall not be construed to require a city, county,
 38 or city and county to provide cash transfer payments or other
 39 monetary compensation but may include the reduction or waiver

1 of requirements which the city, county, or city and county might
2 otherwise apply as conditions of conversion approval.

3 (d) An applicant for approval to convert apartments to a
4 condominium project may submit to a city, county, or city and
5 county a preliminary proposal pursuant to this section prior to the
6 submittal of any formal requests for subdivision map approvals.
7 The city, county, or city and county shall, within 90 days of receipt
8 of a written proposal, notify the applicant in writing of the manner
9 in which it will comply with this section. The city, county, or city
10 and county shall establish procedures for carrying out this section,
11 which shall include legislative body approval of the means of
12 compliance with this section.

13 (e) Nothing in this section shall be construed to require a city,
14 county, or city and county to approve a proposal to convert
15 apartments to condominiums.

16 (f) An applicant shall be ineligible for a density bonus or other
17 incentives under this section if the apartments proposed for
18 conversion constitute a housing development for which a density
19 bonus or other incentives were provided under Section 65915.

20 (g) An applicant shall be ineligible for a density bonus or any
21 other incentives or concessions under this section if the
22 condominium project is proposed on any property that includes a
23 parcel or parcels on which *rental* dwelling units ~~have, at any time~~
24 *are or, if the dwelling units have been vacated or demolished* in
25 the five-year period preceding the application, ~~have been occupied~~
26 *by lower or very low income households, been subject to a recorded*
27 *covenant, ordinance, or law that restricts rents to levels affordable*
28 *to persons and families of lower or very low income, or been*
29 *income; subject to any other form of rent or price control through*
30 *a public entity's valid exercise of its police power, power; or*
31 *occupied by lower or very low income households, unless the*
32 *proposed condominium project replaces the existing units with at*
33 *least the same number of units of equivalent size or type, or both,*
34 *to be made available for sale at affordable housing costs to, and*
35 *occupied by, persons and families in the same or lower income*
36 *category in the same proportion as the existing affordable those*
37 *units, as defined in subparagraph (B) of paragraph (3) of*
38 *subdivision (c) of Section 65915, and either of the following*
39 *applies:*

- 1 (1) The proposed condominium project includes the additional
- 2 required set aside of affordable units at the percentages set forth
- 3 in subdivision (a).
- 4 (2) Each unit in the development is affordable to, and occupied
- 5 by, either a lower or very low income household.