

AMENDED IN SENATE AUGUST 22, 2014
AMENDED IN SENATE JUNE 26, 2014
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, 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 ~~rent or affordable~~ housing ~~costs~~ cost 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 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 development,~~ *inclusive of the units replaced pursuant to the requirements described above, contains* 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 very low
5 and low-income rental units that qualified the applicant for the
6 award of the density bonus for 55 years or a longer period of time
7 if required by the construction or mortgage financing assistance
8 program, mortgage insurance program, or rental subsidy program.
9 Rents for the lower income density bonus units shall be set at an
10 affordable rent as defined in Section 50053 of the Health and Safety
11 Code.

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

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

30 (B) For purposes of this subdivision, the local government's
31 initial subsidy shall be equal to the fair market value of the home
32 at the time of initial sale minus the initial sale price to the
33 moderate-income household, plus the amount of any downpayment
34 assistance or mortgage assistance. If upon resale the market value
35 is lower than the initial market value, then the value at the time of
36 the resale shall be used as the initial market value.

37 (C) For purposes of this subdivision, the local government's
38 proportionate share of appreciation shall be equal to the ratio of
39 the local government's initial subsidy to the fair market value of
40 the home at the time of initial sale.

1 (3) (A) An applicant shall be ineligible for a density bonus or
2 any other incentives or concessions under this section if the housing
3 development is proposed on any property that includes a parcel or
4 parcels on which rental dwelling units are or, if the dwelling units
5 have been vacated or demolished in the five-year period preceding
6 the application, have been subject to a recorded covenant,
7 ordinance, or law that restricts rents to levels affordable to persons
8 and families of lower or very low income; subject to any other
9 form of rent or price control through a public entity's valid exercise
10 of its police power; or occupied by lower or very low income
11 households, unless the proposed housing development replaces
12 those units, and either of the following applies:

13 (i) ~~The proposed housing development includes the additional~~
14 ~~required set aside of affordable units development, inclusive of the~~
15 ~~units replaced pursuant to this paragraph, contains affordable~~
16 ~~units at the percentages set forth in subdivision (b).~~

17 (ii) Each unit in the development, exclusive of a manager's unit
18 or units, is affordable to, and occupied by, either a lower or very
19 low income household.

20 (B) For the purposes of this paragraph, "replace" shall mean
21 either of the following:

22 (i) If any dwelling units described in subparagraph (A) are
23 occupied on the date of application, the proposed housing
24 development shall provide at least the same number of units of
25 equivalent size or type, or both, to be made available ~~for rent~~ at
26 ~~affordable rent or affordable housing costs~~ *cost* to, and occupied
27 by, persons and families in the same or lower income category as
28 those households in occupancy. For unoccupied dwelling units
29 described in subparagraph (A) in a development with occupied
30 units, the proposed housing development shall provide units of
31 equivalent size or type, or both, to be made available ~~for rent~~ at
32 ~~affordable rent or affordable housing costs~~ *cost* to, and occupied
33 by, persons and families in the same or lower income category in
34 the same proportion of affordability as the occupied units. All
35 replacement calculations resulting in fractional units shall be
36 rounded up to the next whole number. ~~These~~ *If the replacement*
37 *units will be rental dwelling units, these* units shall be subject to
38 a recorded affordability restriction for at least 55 years. *If the*
39 *proposed development is for-sale units, the units replaced shall*
40 *be subject to paragraph (2).*

1 (ii) If all dwelling units described in subparagraph (A) have
 2 been vacated or demolished within the five-year period preceding
 3 the application, the proposed housing development shall provide
 4 at least the same number of units of equivalent size or type, or
 5 both, as existed at the highpoint of those units in the five-year
 6 period preceding the application to be made available ~~for rent~~ at
 7 affordable *rent or affordable* housing ~~costs~~ *cost* to, and occupied
 8 by, persons and families in the same or lower income category as
 9 those persons and families in occupancy at that time, if known. If
 10 the incomes of the persons and families in occupancy at the
 11 highpoint is not known, then one-half of the required units shall
 12 be made available ~~for rent~~ at affordable *rent or affordable* housing
 13 ~~costs~~ *cost* to, and occupied by, very low income persons and
 14 families and one-half of the required units shall be made available
 15 for rent at affordable housing costs to, and occupied by,
 16 low-income persons and families. All replacement calculations
 17 resulting in fractional units shall be rounded up to the next whole
 18 number. ~~These~~ *If the replacement units will be rental dwelling*
 19 *units, these* units shall be subject to a recorded affordability
 20 restriction for at least 55 years. *If the proposed development is*
 21 *for-sale units, the units replaced shall be subject to paragraph (2).*

22 (C) Paragraph (3) of subdivision (c) does not apply to an
 23 applicant seeking a density bonus for a proposed housing
 24 paragraph if their application was submitted to, or processed by,
 25 a city, county, or city and county before January 1, 2015.

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

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

38 (B) The concession or incentive would have a specific adverse
 39 impact, as defined in paragraph (2) of subdivision (d) of Section
 40 65589.5, upon public health and safety or the physical environment

1 or on any real property that is listed in the California Register of
2 Historical Resources and for which there is no feasible method to
3 satisfactorily mitigate or avoid the specific adverse impact without
4 rendering the development unaffordable to low- and
5 moderate-income households.

6 (C) The concession or incentive would be contrary to state or
7 federal law.

8 (2) The applicant shall receive the following number of
9 incentives or concessions:

10 (A) One incentive or concession for projects that include at least
11 10 percent of the total units for lower income households, at least
12 5 percent for very low income households, or at least 10 percent
13 for persons and families of moderate income in a common interest
14 development.

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

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

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

1 carrying out this section, that shall include legislative body
2 approval of the means of compliance with this section.

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

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

33 (f) For the purposes of this chapter, "density bonus" means a
34 density increase over the otherwise maximum allowable residential
35 density as of the date of application by the applicant to the city,
36 county, or city and county. The applicant may elect to accept a
37 lesser percentage of density bonus. The amount of density bonus
38 to which the applicant is entitled shall vary according to the amount
39 by which the percentage of affordable housing units exceeds the
40 percentage established in subdivision (b).

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

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

17
18 (2) For housing developments meeting the criteria of
19 subparagraph (B) of paragraph (1) of subdivision (b), the density
20 bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

30
31 (3) For housing developments meeting the criteria of
32 subparagraph (C) of paragraph (1) of subdivision (b), the density
33 bonus shall be 20 percent of the number of senior housing units.

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

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6

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

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

36 (g) (1) When an applicant for a tentative subdivision map,
 37 parcel map, or other residential development approval donates
 38 land to a city, county, or city and county in accordance with this
 39 subdivision, the applicant shall be entitled to a 15-percent increase

1 above the otherwise maximum allowable residential density for
2 the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
3		
4		
5	10	15
6	11	16
7	12	17
8	13	18
9	14	19
10	15	20
11	16	21
12	17	22
13	18	23
14	19	24
15	20	25
16	21	26
17	22	27
18	23	28
19	24	29
20	25	30
21	26	31
22	27	32
23	28	33
24	29	34
25	30	35

26
27 (2) This increase shall be in addition to any increase in density
28 mandated by subdivision (b), up to a maximum combined mandated
29 density increase of 35 percent if an applicant seeks an increase
30 pursuant to both this subdivision and subdivision (b). All density
31 calculations resulting in fractional units shall be rounded up to the
32 next whole number. Nothing in this subdivision shall be construed
33 to enlarge or diminish the authority of a city, county, or city and
34 county to require a developer to donate land as a condition of
35 development. An applicant shall be eligible for the increased
36 density bonus described in this subdivision if all of the following
37 conditions are met:

38 (A) The applicant donates and transfers the land no later than
39 the date of approval of the final subdivision map, parcel map, or
40 residential development application.

1 (B) The developable acreage and zoning classification of the
2 land being transferred are sufficient to permit construction of units
3 affordable to very low income households in an amount not less
4 than 10 percent of the number of residential units of the proposed
5 development.

6 (C) The transferred land is at least one acre in size or of
7 sufficient size to permit development of at least 40 units, has the
8 appropriate general plan designation, is appropriately zoned with
9 appropriate development standards for development at the density
10 described in paragraph (3) of subdivision (c) of Section 65583.2,
11 and is or will be served by adequate public facilities and
12 infrastructure.

13 (D) The transferred land shall have all of the permits and
14 approvals, other than building permits, necessary for the
15 development of the very low income housing units on the
16 transferred land, not later than the date of approval of the final
17 subdivision map, parcel map, or residential development
18 application, except that the local government may subject the
19 proposed development to subsequent design review to the extent
20 authorized by subdivision (i) of Section 65583.2 if the design is
21 not reviewed by the local government prior to the time of transfer.

22 (E) The transferred land and the affordable units shall be subject
23 to a deed restriction ensuring continued affordability of the units
24 consistent with paragraphs (1) and (2) of subdivision (c), which
25 shall be recorded on the property at the time of the transfer.

26 (F) The land is transferred to the local agency or to a housing
27 developer approved by the local agency. The local agency may
28 require the applicant to identify and transfer the land to the
29 developer.

30 (G) The transferred land shall be within the boundary of the
31 proposed development or, if the local agency agrees, within
32 one-quarter mile of the boundary of the proposed development.

33 (H) A proposed source of funding for the very low income units
34 shall be identified not later than the date of approval of the final
35 subdivision map, parcel map, or residential development
36 application.

37 (h) (1) When an applicant proposes to construct a housing
38 development that conforms to the requirements of subdivision (b)
39 and includes a child care facility that will be located on the

1 premises of, as part of, or adjacent to, the project, the city, county,
2 or city and county shall grant either of the following:

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

6 (B) An additional concession or incentive that contributes
7 significantly to the economic feasibility of the construction of the
8 child care facility.

9 (2) The city, county, or city and county shall require, as a
10 condition of approving the housing development, that the following
11 occur:

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

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

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

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

32 (i) “Housing development,” as used in this section, means a
33 development project for five or more residential units. For the
34 purposes of this section, “housing development” also includes a
35 subdivision or common interest development, as defined in Section
36 4100 of the Civil Code, approved by a city, county, or city and
37 county and consists of residential units or unimproved residential
38 lots and either a project to substantially rehabilitate and convert
39 an existing commercial building to residential use or the substantial
40 rehabilitation of an existing multifamily dwelling, as defined in

1 subdivision (d) of Section 65863.4, where the result of the
2 rehabilitation would be a net increase in available residential units.
3 For the purpose of calculating a density bonus, the residential units
4 shall be on contiguous sites that are the subject of one development
5 application, but do not have to be based upon individual
6 subdivision maps or parcels. The density bonus shall be permitted
7 in geographic areas of the housing development other than the
8 areas where the units for the lower income households are located.

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

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

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

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

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

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

38 (l) Subdivision (k) does not limit or require the provision of
39 direct financial incentives for the housing development, including

1 the provision of publicly owned land, by the city, county, or city
2 and county, or the waiver of fees or dedication requirements.

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

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

14 (o) For purposes of this section, the following definitions shall
15 apply:

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

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

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

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

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

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

38 (2) If the total number of parking spaces required for a
39 development is other than a whole number, the number shall be
40 rounded up to the next whole number. For purposes of this

1 subdivision, a development may provide “onsite parking” through
2 tandem parking or uncovered parking, but not through onstreet
3 parking.

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

9 SEC. 2. Section 65915.5 of the Government Code is amended
10 to read:

11 65915.5. (a) When an applicant for approval to convert
12 apartments to a condominium project agrees to provide at least 33
13 percent of the total units of the proposed condominium project to
14 persons and families of low or moderate income as defined in
15 Section 50093 of the Health and Safety Code, or 15 percent of the
16 total units of the proposed condominium project to lower income
17 households as defined in Section 50079.5 of the Health and Safety
18 Code, and agrees to pay for the reasonably necessary administrative
19 costs incurred by a city, county, or city and county pursuant to this
20 section, the city, county, or city and county shall either (1) grant
21 a density bonus or (2) provide other incentives of equivalent
22 financial value. A city, county, or city and county may place such
23 reasonable conditions on the granting of a density bonus or other
24 incentives of equivalent financial value as it finds appropriate,
25 including, but not limited to, conditions which assure continued
26 affordability of units to subsequent purchasers who are persons
27 and families of low and moderate income or lower income
28 households.

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

33 (c) For purposes of this section, “other incentives of equivalent
34 financial value” shall not be construed to require a city, county,
35 or city and county to provide cash transfer payments or other
36 monetary compensation but may include the reduction or waiver
37 of requirements which the city, county, or city and county might
38 otherwise apply as conditions of conversion approval.

39 (d) An applicant for approval to convert apartments to a
40 condominium project may submit to a city, county, or city and

1 county a preliminary proposal pursuant to this section prior to the
2 submittal of any formal requests for subdivision map approvals.
3 The city, county, or city and county shall, within 90 days of receipt
4 of a written proposal, notify the applicant in writing of the manner
5 in which it will comply with this section. The city, county, or city
6 and county shall establish procedures for carrying out this section,
7 which shall include legislative body approval of the means of
8 compliance with this section.

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

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

16 (g) An applicant shall be ineligible for a density bonus or any
17 other incentives or concessions under this section if the
18 condominium project is proposed on any property that includes a
19 parcel or parcels on which rental dwelling units are or, if the
20 dwelling units have been vacated or demolished in the five-year
21 period preceding the application, have been subject to a recorded
22 covenant, ordinance, or law that restricts rents to levels affordable
23 to persons and families of lower or very low income; subject to
24 any other form of rent or price control through a public entity's
25 valid exercise of its police power; or occupied by lower or very
26 low income households, unless the proposed condominium project
27 replaces those units, as defined in subparagraph (B) of paragraph
28 (3) of subdivision (c) of Section 65915, and either of the following
29 applies:

30 (1) ~~The proposed condominium project includes the additional~~
31 ~~required set aside of project, inclusive of the units replaced~~
32 ~~pursuant to subparagraph (B) of paragraph (3) of subdivision (c)~~
33 ~~of Section 65915, contains affordable units at the percentages set~~
34 ~~forth in subdivision (a).~~

35 (2) Each unit in the development, exclusive of a manager's unit
36 or units, is affordable to, and occupied by, either a lower or very
37 low income household.

38 (h) *Subdivision (g) does not apply to an applicant seeking a*
39 *density bonus for a proposed housing development if their*

- 1 *application was submitted to, or processed by, a city, county, or*
- 2 *city and county before January 1, 2015.*

O