

AMENDED IN SENATE JUNE 23, 2015

AMENDED IN ASSEMBLY JUNE 2, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 744**

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**Introduced by Assembly ~~Member~~ *Members Chau and Quirk*  
(Principal coauthor: Assembly Member Gonzalez)**

February 25, 2015

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An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 744, as amended, Chau. Planning and zoning: density bonuses.

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 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. Existing law prohibits a city, county, or city and county from requiring a vehicular parking ratio for a housing development that meets these criteria in excess of specified ratios. This prohibition applies only at the request of the developer and specifies that the developer may request additional parking incentives or concessions.

This bill would, notwithstanding the above-described provisions, additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low-~~and~~ or very low income units, as specified, and is located within one-half mile of a major transit stop, as defined, and there is unobstructed access to the transit stop from the development. The bill would also prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio in excess of specified amounts per unit on a development that consists solely of units with an affordable housing cost to lower income households, as specified, if the development is within one-half mile of a major transit stop and there is unobstructed access to the transit stop from the development, is a for-rent housing development for individuals that are 62 years of age or older, *that complies with specified existing laws regarding senior housing*, or is a special needs housing development, as those terms are defined. The bill would make findings and declarations in this regard, including that this constitutes a matter of statewide concern and is not a municipal affair.

By imposing additional duties on local governments in awarding density bonuses, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Having a healthy housing market that provides an adequate
- 4 supply of homes that are affordable to Californians at all income
- 5 levels is critical to the economic prosperity and quality of life in
- 6 the state.

- 1 (b) There exists a severe shortage of affordable housing,  
2 especially for persons and families of extremely low, very low and  
3 low income, and there is an immediate need to encourage the  
4 development of new housing, not only through the provision of  
5 financial assistance but also through reforms to regulation.
- 6 (c) Affordable housing is expensive to build in California.
- 7 (d) The cost of building affordable housing in California is  
8 impacted by local opposition, changes imposed by local design  
9 and review, and requirements for on-site parking.
- 10 (e) The average construction cost per space, excluding land  
11 cost, in a parking structure in the United States is about \$24,000  
12 for aboveground parking and \$34,000 for underground parking.  
13 In an affordable housing project with a fixed budget, every \$24,000  
14 spent on a required parking space is \$24,000 less to spend on  
15 housing.
- 16 (f) The biggest single determinant of vehicle miles traveled and  
17 therefore greenhouse gas emissions is ownership of a private  
18 vehicle.
- 19 (g) A review of developments funded through the Department  
20 of Housing and Community Development's Transit-Oriented  
21 Development Implementation Program (TOD program) shows  
22 that lower income households drive 25 to 30 percent fewer miles  
23 when living within one-half mile of transit than those living in  
24 non-TOD program areas. When living within one-quarter mile of  
25 frequent transit, they drove nearly 50 percent less.
- 26 (h) When cities require off-street parking with all new residential  
27 construction, they shift what should be the cost of driving, the cost  
28 of parking a car, into the cost of housing, which artificially  
29 increases the cost of housing.
- 30 (i) Increases in public transportation and shared mobility options  
31 and the development of more walkable and bikeable neighborhoods  
32 reduce the demand for parking.
- 33 (j) Consistent with Chapter 488 of the Statutes of 2006 (AB 32)  
34 and Chapter 728 of the Statutes of 2008 (SB 375), it is state policy  
35 to promote transit-oriented infill development to reduce greenhouse  
36 gas emissions.
- 37 (k) The high cost of the land and improvements required to  
38 provide parking significantly increases the cost of transit-oriented  
39 development, making lower cost and affordable housing

1 development financially infeasible and hindering the goals of SB  
2 375.

3 (l) Eliminating minimum parking requirements will allow the  
4 limited funding available for affordable housing to support more  
5 housing for more Californians. A given housing subsidy fund can  
6 benefit about 6.5 times more households with no parking spaces  
7 than households with 2 spaces per unit.

8 (m) Minimum parking requirements provide large subsidies for  
9 parking, which in turn encourage more people to drive cars.

10 (n) Minimum parking requirements create a barrier to effective  
11 use of the density bonus law contained in Section 65915 of the  
12 Government Code. The parking required for the extra units adds  
13 construction and land costs that may be prohibitive and requires  
14 vacant land that may be unavailable, especially in locations near  
15 transit.

16 (o) Increasing the supply of affordable housing near transit helps  
17 achieve deeper affordability through reduced transportation costs,  
18 in addition to reduced housing costs.

19 (p) Governmental parking requirements for infill and  
20 transit-oriented development reduce the viability of transit by  
21 limiting the number of households or workers near transit,  
22 increasing walking distances, and degrading the pedestrian  
23 environment.

24 (q) Reducing or eliminating minimum parking requirements for  
25 infill and transit-oriented development and allowing builders and  
26 the market to decide how much parking is needed can achieve all  
27 of the following:

28 (1) Ensure sufficient amounts of parking at almost all times.

29 (2) Reduce the cost of development and increase the number of  
30 transit-accessible and affordable housing units.

31 (3) Allow for more effective use of the density bonus law.

32 (4) Increase density in areas with the most housing demand,  
33 and improve the viability of developing alternate modes of  
34 transportation, such as public transit, ridesharing, biking, and  
35 walking.

36 (5) Reduce greenhouse gas emissions and vehicle miles traveled  
37 by removing an incentive to drive.

38 (r) It is the intent of the Legislature to reduce the cost of  
39 development by eliminating excessive minimum parking

1 requirements for transit-oriented developments that includes  
2 affordable housing, senior housing, and special needs housing.

3 (s) The Legislature further declares that the need to address  
4 infill development and excessive parking requirements is a matter  
5 of statewide concern and is not a municipal affair as that term is  
6 used in Section 5 of Article XI of the California Constitution.  
7 Therefore, this act shall apply to all cities, including charter cities.

8 SEC. 2. Section 65915 of the Government Code is amended  
9 to read:

10 65915. (a) When an applicant seeks a density bonus for a  
11 housing development within, or for the donation of land for housing  
12 within, the jurisdiction of a city, county, or city and county, that  
13 local government shall provide the applicant with incentives or  
14 concessions for the production of housing units and child care  
15 facilities as prescribed in this section. All cities, counties, or cities  
16 and counties shall adopt an ordinance that specifies how  
17 compliance with this section will be implemented. Failure to adopt  
18 an ordinance shall not relieve a city, county, or city and county  
19 from complying with this section.

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

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

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

33 (C) A senior citizen housing development, as defined in Sections  
34 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
35 residency based on age requirements for housing for older persons  
36 pursuant to Section 798.76 or 799.5 of the Civil Code.

37 (D) Ten percent of the total dwelling units in a common interest  
38 development, as defined in Section 4100 of the Civil Code, for  
39 persons and families of moderate income, as defined in Section

1 50093 of the Health and Safety Code, provided that all units in the  
2 development are offered to the public for purchase.

3 (2) For purposes of calculating the amount of the density bonus  
4 pursuant to subdivision (f), an applicant who requests a density  
5 bonus pursuant to this subdivision shall elect whether the bonus  
6 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
7 of paragraph (1).

8 (3) For the purposes of this section, “total units” or “total  
9 dwelling units” does not include units added by a density bonus  
10 awarded pursuant to this section or any local law granting a greater  
11 density bonus.

12 (c) (1) An applicant shall agree to, and the city, county, or city  
13 and county shall ensure, the continued affordability of all very low  
14 and low-income rental units that qualified the applicant for the  
15 award of the density bonus for 55 years or a longer period of time  
16 if required by the construction or mortgage financing assistance  
17 program, mortgage insurance program, or rental subsidy program.  
18 Rents for the lower income density bonus units shall be set at an  
19 affordable rent as defined in Section 50053 of the Health and Safety  
20 Code.

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

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

39 (B) For purposes of this subdivision, the local government’s  
40 initial subsidy shall be equal to the fair market value of the home

1 at the time of initial sale minus the initial sale price to the  
2 moderate-income household, plus the amount of any downpayment  
3 assistance or mortgage assistance. If upon resale the market value  
4 is lower than the initial market value, then the value at the time of  
5 the resale shall be used as the initial market value.

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

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

22 (i) The proposed housing development, inclusive of the units  
23 replaced pursuant to this paragraph, contains affordable units at  
24 the percentages set forth in subdivision (b).

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

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

30 (i) If any dwelling units described in subparagraph (A) are  
31 occupied on the date of application, the proposed housing  
32 development shall provide at least the same number of units of  
33 equivalent size or type, or both, to be made available at affordable  
34 rent or affordable housing cost to, and occupied by, persons and  
35 families in the same or lower income category as those households  
36 in occupancy. For unoccupied dwelling units described in  
37 subparagraph (A) in a development with occupied units, the  
38 proposed housing development shall provide units of equivalent  
39 size or type, or both, to be made available at affordable rent or  
40 affordable housing cost to, and occupied by, persons and families

1 in the same or lower income category in the same proportion of  
2 affordability as the occupied units. All replacement calculations  
3 resulting in fractional units shall be rounded up to the next whole  
4 number. If the replacement units will be rental dwelling units,  
5 these units shall be subject to a recorded affordability restriction  
6 for at least 55 years. If the proposed development is for-sale units,  
7 the units replaced shall be subject to paragraph (2).

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

29 (C) Paragraph (3) of subdivision (c) does not apply to an  
30 applicant seeking a density bonus for a proposed housing  
31 development if his or her application was submitted to, or  
32 processed by, a city, county, or city and county before January 1,  
33 2015.

34 (d) (1) An applicant for a density bonus pursuant to subdivision  
35 (b) may submit to a city, county, or city and county a proposal for  
36 the specific incentives or concessions that the applicant requests  
37 pursuant to this section, and may request a meeting with the city,  
38 county, or city and county. The city, county, or city and county  
39 shall grant the concession or incentive requested by the applicant



1 unless the city, county, or city and county makes a written finding,  
2 based upon substantial evidence, of any of the following:

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

7 (B) The concession or incentive would have a specific adverse  
8 impact, as defined in paragraph (2) of subdivision (d) of Section  
9 65589.5, upon public health and safety or the physical environment  
10 or on any real property that is listed in the California Register of  
11 Historical Resources and for which there is no feasible method to  
12 satisfactorily mitigate or avoid the specific adverse impact without  
13 rendering the development unaffordable to low- and  
14 moderate-income households.

15 (C) The concession or incentive would be contrary to state or  
16 federal law.

17 (2) The applicant shall receive the following number of  
18 incentives or concessions:

19 (A) One incentive or concession for projects that include at least  
20 10 percent of the total units for lower income households, at least  
21 5 percent for very low income households, or at least 10 percent  
22 for persons and families of moderate income in a common interest  
23 development.

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

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

34 (3) The applicant may initiate judicial proceedings if the city,  
35 county, or city and county refuses to grant a requested density  
36 bonus, incentive, or concession. If a court finds that the refusal to  
37 grant a requested density bonus, incentive, or concession is in  
38 violation of this section, the court shall award the plaintiff  
39 reasonable attorney's fees and costs of suit. Nothing in this  
40 subdivision shall be interpreted to require a local government to

1 grant an incentive or concession that has a specific, adverse impact,  
2 as defined in paragraph (2) of subdivision (d) of Section 65589.5,  
3 upon health, safety, or the physical environment, and for which  
4 there is no feasible method to satisfactorily mitigate or avoid the  
5 specific adverse impact. Nothing in this subdivision shall be  
6 interpreted to require a local government to grant an incentive or  
7 concession that would have an adverse impact on any real property  
8 that is listed in the California Register of Historical Resources.  
9 The city, county, or city and county shall establish procedures for  
10 carrying out this section, that shall include legislative body  
11 approval of the means of compliance with this section.

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

38 (2) A proposal for the waiver or reduction of development  
39 standards pursuant to this subdivision shall neither reduce nor

1 increase the number of incentives or concessions to which the  
2 applicant is entitled pursuant to subdivision (d).

3 (f) For the purposes of this chapter, “density bonus” means a  
4 density increase over the otherwise maximum allowable residential  
5 density as of the date of application by the applicant to the city,  
6 county, or city and county. The applicant may elect to accept a  
7 lesser percentage of density bonus. The amount of density bonus  
8 to which the applicant is entitled shall vary according to the amount  
9 by which the percentage of affordable housing units exceeds the  
10 percentage established in subdivision (b).

11 (1) For housing developments meeting the criteria of  
12 subparagraph (A) of paragraph (1) of subdivision (b), the density  
13 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

27  
28 (2) For housing developments meeting the criteria of  
29 subparagraph (B) of paragraph (1) of subdivision (b), the density  
30 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

40

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

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

7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40				
	Percentage Moderate-Income Units																																				
			10																																		
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1 (5) All density calculations resulting in fractional units shall be  
 2 rounded up to the next whole number. The granting of a density  
 3 bonus shall not be interpreted, in and of itself, to require a general  
 4 plan amendment, local coastal plan amendment, zoning change,  
 5 or other discretionary approval.

6 (g) (1) When an applicant for a tentative subdivision map,  
 7 parcel map, or other residential development approval donates  
 8 land to a city, county, or city and county in accordance with this  
 9 subdivision, the applicant shall be entitled to a 15-percent increase  
 10 above the otherwise maximum allowable residential density for  
 11 the entire development, as follows:

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

36 (2) This increase shall be in addition to any increase in density  
 37 mandated by subdivision (b), up to a maximum combined mandated  
 38 density increase of 35 percent if an applicant seeks an increase  
 39 pursuant to both this subdivision and subdivision (b). All density  
 40 calculations resulting in fractional units shall be rounded up to the

1 next whole number. Nothing in this subdivision shall be construed  
2 to enlarge or diminish the authority of a city, county, or city and  
3 county to require a developer to donate land as a condition of  
4 development. An applicant shall be eligible for the increased  
5 density bonus described in this subdivision if all of the following  
6 conditions are met:

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

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

15 (C) The transferred land is at least one acre in size or of  
16 sufficient size to permit development of at least 40 units, has the  
17 appropriate general plan designation, is appropriately zoned with  
18 appropriate development standards for development at the density  
19 described in paragraph (3) of subdivision (c) of Section 65583.2,  
20 and is or will be served by adequate public facilities and  
21 infrastructure.

22 (D) The transferred land shall have all of the permits and  
23 approvals, other than building permits, necessary for the  
24 development of the very low income housing units on the  
25 transferred land, not later than the date of approval of the final  
26 subdivision map, parcel map, or residential development  
27 application, except that the local government may subject the  
28 proposed development to subsequent design review to the extent  
29 authorized by subdivision (i) of Section 65583.2 if the design is  
30 not reviewed by the local government prior to the time of transfer.

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

35 (F) The land is transferred to the local agency or to a housing  
36 developer approved by the local agency. The local agency may  
37 require the applicant to identify and transfer the land to the  
38 developer.

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

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

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

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

16 (B) An additional concession or incentive that contributes  
17 significantly to the economic feasibility of the construction of the  
18 child care facility.

19 (2) The city, county, or city and county shall require, as a  
20 condition of approving the housing development, that the following  
21 occur:

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

26 (B) Of the children who attend the child care facility, the  
27 children of very low income households, lower income households,  
28 or families of moderate income shall equal a percentage that is  
29 equal to or greater than the percentage of dwelling units that are  
30 required for very low income households, lower income  
31 households, or families of moderate income pursuant to subdivision  
32 (b).

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

38 (4) “Child care facility,” as used in this section, means a child  
39 day care facility other than a family day care home, including, but

1 not limited to, infant centers, preschools, extended day care  
2 facilities, and schoolage child care centers.

3 (i) “Housing development,” as used in this section, means a  
4 development project for five or more residential units. For the  
5 purposes of this section, “housing development” also includes a  
6 subdivision or common interest development, as defined in Section  
7 4100 of the Civil Code, approved by a city, county, or city and  
8 county and consists of residential units or unimproved residential  
9 lots and either a project to substantially rehabilitate and convert  
10 an existing commercial building to residential use or the substantial  
11 rehabilitation of an existing multifamily dwelling, as defined in  
12 subdivision (d) of Section 65863.4, where the result of the  
13 rehabilitation would be a net increase in available residential units.  
14 For the purpose of calculating a density bonus, the residential units  
15 shall be on contiguous sites that are the subject of one development  
16 application, but do not have to be based upon individual  
17 subdivision maps or parcels. The density bonus shall be permitted  
18 in geographic areas of the housing development other than the  
19 areas where the units for the lower income households are located.

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

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

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

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



1 (2) Approval of mixed-use zoning in conjunction with the  
2 housing project if commercial, office, industrial, or other land uses  
3 will reduce the cost of the housing development and if the  
4 commercial, office, industrial, or other land uses are compatible  
5 with the housing project and the existing or planned development  
6 in the area where the proposed housing project will be located.

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

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

14 (m) This section does not supersede or in any way alter or lessen  
15 the effect or application of the California Coastal Act of 1976  
16 (Division 20 (commencing with Section 30000) of the Public  
17 Resources Code).

18 (n) If permitted by local ordinance, nothing in this section shall  
19 be construed to prohibit a city, county, or city and county from  
20 granting a density bonus greater than what is described in this  
21 section or from granting a proportionately lower density bonus  
22 than what is required by this section for developments that do not  
23 meet the requirements of this section.

24 (o) For purposes of this section, the following definitions shall  
25 apply:

26 (1) “Development standard” includes a site or construction  
27 condition, including, but not limited to, a height limitation, a  
28 setback requirement, a floor area ratio, an onsite open-space  
29 requirement, or a parking ratio that applies to a residential  
30 development pursuant to any ordinance, general plan element,  
31 specific plan, charter, or other local condition, law, policy,  
32 resolution, or regulation.

33 (2) “Maximum allowable residential density” means the density  
34 allowed under the zoning ordinance and land use element of the  
35 general plan, or if a range of density is permitted, means the  
36 maximum allowable density for the specific zoning range and land  
37 use element of the general plan applicable to the project. Where  
38 the density allowed under the zoning ordinance is inconsistent  
39

1 with the density allowed under the land use element of the general  
 2 plan, the general plan density shall prevail.

3 (p) (1) Except as provided in paragraphs (2) and (3), a city,  
 4 county, or city and county shall not require a vehicular parking  
 5 ratio, inclusive of handicapped and guest parking, of a development  
 6 meeting the criteria of ~~subdivision (b)~~, *subdivisions (b) and (c)*,  
 7 that exceeds the following ratios:

- 8 (A) Zero to one bedroom: one onsite parking space.
- 9 (B) Two to three bedrooms: two onsite parking spaces.
- 10 (C) Four and more bedrooms: two and one-half parking spaces.

11 (2) Notwithstanding paragraph (1), if a development includes  
 12 the maximum percentage of low-~~and~~ *or* very low income units  
 13 provided for in paragraphs (1) and (2) of subdivision (f) and is  
 14 located within one-half mile of a major transit stop, as defined in  
 15 subdivision (b) of Section 21155 of the Public Resources Code,  
 16 and there is unobstructed access to the major transit stop from the  
 17 development, then, upon the request of the developer, a city,  
 18 county, or city and county shall not impose a vehicular parking  
 19 ratio that exceeds 0.5 spaces per bedroom.

20 (3) Notwithstanding paragraph (1), if a development consists  
 21 solely of rental units, exclusive of a manager’s unit or units, with  
 22 an affordable housing cost to lower income families, as provided  
 23 in Section 50052.5 of the Health and Safety Code, then, upon the  
 24 request of the developer, a city, county, or city and county shall  
 25 not impose a minimum vehicular parking requirement, if the  
 26 development meets any of the following criteria:

27 (A) The development is located within one-half mile of a major  
 28 transit stop, as defined in subdivision (b) of Section 21155 of the  
 29 Public Resources Code, and there is unobstructed access to the  
 30 major transit stop from the development. *For purposes of this*  
 31 *paragraph, a development shall have unobstructed access to the*  
 32 *major transit stop if a resident is able to walk to the major transit*  
 33 *stop without encountering natural or constructed impediments.*

34 (B) The development is a for-rent housing development for  
 35 individuals who are 62 years of age or ~~older~~: *older that complies*  
 36 *with Sections 51.2 and 51.3 of the Civil Code.*

37 (C) The development is a special needs housing development,  
 38 as defined in Section 51312 of the Health and Safety Code.

39 (4) If the total number of parking spaces required for a  
 40 development is other than a whole number, the number shall be

1 rounded up to the next whole number. For purposes of this  
2 subdivision, a development may provide on-site parking through  
3 tandem parking or uncovered parking, but not through on-street  
4 parking.

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

10 (6) This subdivision does not preclude a city, county, or city  
11 and county from reducing or eliminating a parking requirement  
12 for development projects of any type in any location.

13 (7) Notwithstanding paragraphs (2) and (3), ~~a if a city, county~~  
14 ~~or city and county has conducted an area-wide or jurisdiction-wide~~  
15 ~~parking study in the last 5 years, then the city, county, or city and~~  
16 ~~county may impose a higher parking standard; vehicular parking~~  
17 ~~ratio not to exceed the standard ratio described in paragraph (1),~~  
18 ~~based upon substantial evidence found in an area-wide, or~~  
19 ~~jurisdiction-wide~~ *the parking study conducted by an independent*  
20 ~~consultant within the last 5 years; consultant~~, that includes, but is  
21 not limited to, an analysis of parking availability, differing levels  
22 of transit access, walkability access to transit services, the potential  
23 for shared parking, and the effect of parking requirements on the  
24 cost of market-rate and subsidized developments. The city, county,  
25 or city and county shall make findings supporting the need for the  
26 higher parking ratio.

27 SEC. 3. If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.