

AMENDED IN SENATE JULY 8, 2015  
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 Members Chau and Quirk**  
**(Principal coauthor: Assembly Member Gonzalez)**  
*(Coauthor: Senator Beall)*

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~~ *ratio, inclusive of handicapped and guest parking*, in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low- or very low income units, as specified, and is located within ~~one-half~~ <sup>1</sup>/<sub>2</sub> 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, *inclusive of handicapped and guest parking*, 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~~ <sup>1</sup>/<sub>2</sub> 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~~, *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 require a subject development that is a for-rent housing development for individuals that are 62 years of age or older or a special needs housing development to have either paratransit service or be located within <sup>1</sup>/<sub>2</sub> mile of fixed bus route service that operates at least 8 times per day.* 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.

7 (b) There exists a severe shortage of affordable housing,  
8 especially for persons and families of extremely low, very-low  
9 low, and low income, and there is an immediate need to encourage  
10 the development of new housing, not only through the provision  
11 of financial assistance but also through reforms to regulation.

12 (c) Affordable housing is expensive to build in California.

13 (d) The cost of building affordable housing in California is  
14 impacted by local opposition, changes imposed by local design  
15 and review, and requirements for on-site parking.

16 (e) The average construction cost per space, excluding land  
17 cost, in a parking structure in the United States is about \$24,000  
18 for aboveground parking and \$34,000 for underground parking.  
19 In an affordable housing project with a fixed budget, every \$24,000  
20 spent on a required parking space is \$24,000 less to spend on  
21 housing.

22 (f) The biggest single determinant of vehicle miles traveled and  
23 therefore greenhouse gas emissions is ownership of a private  
24 vehicle.

25 (g) A review of developments funded through the Department  
26 of Housing and Community Development's Transit-Oriented  
27 Development Implementation Program (TOD program) shows  
28 that lower-income households drive 25 to 30 percent fewer  
29 miles when living within one-half mile of transit than those living  
30 in non-TOD program areas. When living within one-quarter mile  
31 of frequent transit, they drove nearly 50 percent less.

32 (h) When cities require off-street parking with all new residential  
33 construction, they shift what should be the cost of driving, the cost  
34 of parking a car, into the cost of housing, which artificially  
35 increases the cost of housing.

36 (i) Increases in public transportation and shared mobility options  
37 and the development of more walkable and bikeable neighborhoods  
38 reduce the demand for parking.

1 (j) Consistent with Chapter 488 of the Statutes of 2006 (AB 32)  
2 and Chapter 728 of the Statutes of 2008 (SB 375), it is state policy  
3 to promote transit-oriented infill development to reduce greenhouse  
4 gas emissions.

5 (k) The high cost of the land and improvements required to  
6 provide parking significantly increases the cost of transit-oriented  
7 development, making lower cost and affordable housing  
8 development financially infeasible and hindering the goals of SB  
9 375.

10 (l) Eliminating minimum parking requirements will allow the  
11 limited funding available for affordable housing to support more  
12 housing for more Californians. A given housing subsidy fund can  
13 benefit about 6.5 times more households with no parking spaces  
14 than households with 2 spaces per unit.

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

17 (n) Minimum parking requirements create a barrier to effective  
18 use of the density bonus law contained in Section 65915 of the  
19 Government Code. The parking required for the extra units adds  
20 construction and land costs that may be prohibitive and requires  
21 vacant land that may be unavailable, especially in locations near  
22 transit.

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

26 (p) Governmental parking requirements for infill and  
27 transit-oriented development reduce the viability of transit by  
28 limiting the number of households or workers near transit,  
29 increasing walking distances, and degrading the pedestrian  
30 environment.

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

- 35 (1) Ensure sufficient amounts of parking at almost all times.
- 36 (2) Reduce the cost of development and increase the number of  
37 transit-accessible and affordable housing units.
- 38 (3) Allow for more effective use of the density bonus law.
- 39 (4) Increase density in areas with the most housing demand,  
40 and improve the viability of developing alternate modes of

1 transportation, such as public transit, ridesharing, biking, and  
2 walking.

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

5 (r) It is the intent of the Legislature to reduce the cost of  
6 development by eliminating excessive minimum parking  
7 requirements for transit-oriented developments that includes  
8 affordable housing, senior housing, and special needs housing.

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

14 SEC. 2. Section 65915 of the Government Code is amended  
15 to read:

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

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

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

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

39 (C) A senior citizen housing development, as defined in Sections  
40 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits

1 residency based on age requirements for housing for older persons  
2 pursuant to Section 798.76 or 799.5 of the Civil Code.

3 (D) Ten percent of the total dwelling units in a common interest  
4 development, as defined in Section 4100 of the Civil Code, for  
5 persons and families of moderate income, as defined in Section  
6 50093 of the Health and Safety Code, provided that all units in the  
7 development are offered to the public for purchase.

8 (2) For purposes of calculating the amount of the density bonus  
9 pursuant to subdivision (f), an applicant who requests a density  
10 bonus pursuant to this subdivision shall elect whether the bonus  
11 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
12 of paragraph (1).

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

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

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

36 (A) Upon resale, the seller of the unit shall retain the value of  
37 any improvements, the downpayment, and the seller’s proportionate  
38 share of appreciation. The local government shall recapture any  
39 initial subsidy, as defined in subparagraph (B), and its proportionate  
40 share of appreciation, as defined in subparagraph (C), which

1 amount shall be used within five years for any of the purposes  
2 described in subdivision (e) of Section 33334.2 of the Health and  
3 Safety Code that promote home ownership.

4 (B) For purposes of this subdivision, the local government's  
5 initial subsidy shall be equal to the fair market value of the home  
6 at the time of initial sale minus the initial sale price to the  
7 moderate-income household, plus the amount of any downpayment  
8 assistance or mortgage assistance. If upon resale the market value  
9 is lower than the initial market value, then the value at the time of  
10 the resale shall be used as the initial market value.

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

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

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

30 (ii) Each unit in the development, exclusive of a manager's unit  
31 or units, is affordable to, and occupied by, either a lower or very  
32 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 at affordable  
39 rent or affordable housing cost to, and occupied by, persons and  
40 families in the same or lower income category as those households

1 in occupancy. For unoccupied dwelling units described in  
2 subparagraph (A) in a development with occupied units, the  
3 proposed housing development shall provide units of equivalent  
4 size or type, or both, to be made available at affordable rent or  
5 affordable housing cost to, and occupied by, persons and families  
6 in the same or lower income category in the same proportion of  
7 affordability as the occupied units. All replacement calculations  
8 resulting in fractional units shall be rounded up to the next whole  
9 number. If the replacement units will be rental dwelling units,  
10 these units shall be subject to a recorded affordability restriction  
11 for at least 55 years. If the proposed development is for-sale units,  
12 the units replaced shall be subject to paragraph (2).

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

34 (C) Paragraph (3) of subdivision (c) does not apply to an  
35 applicant seeking a density bonus for a proposed housing  
36 development if his or her application was submitted to, or  
37 processed by, a city, county, or city and county before January 1,  
38 2015.

39 (d) (1) An applicant for a density bonus pursuant to subdivision  
40 (b) may submit to a city, county, or city and county a proposal for



1 the specific incentives or concessions that the applicant requests  
2 pursuant to this section, and may request a meeting with the city,  
3 county, or city and county. The city, county, or city and county  
4 shall grant the concession or incentive requested by the applicant  
5 unless the city, county, or city and county makes a written finding,  
6 based upon substantial evidence, of any of the following:

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

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

19 (C) The concession or incentive would be contrary to state or  
20 federal law.

21 (2) The applicant shall receive the following number of  
22 incentives or concessions:

23 (A) One incentive or concession for projects that include at least  
24 10 percent of the total units for lower income households, at least  
25 5 percent for very low income households, or at least 10 percent  
26 for persons and families of moderate income in a common interest  
27 development.

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

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

38 (3) The applicant may initiate judicial proceedings if the city,  
39 county, or city and county refuses to grant a requested density  
40 bonus, incentive, or concession. If a court finds that the refusal to

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

16 (e) (1) In no case may a city, county, or city and county apply  
17 any development standard that will have the effect of physically  
18 precluding the construction of a development meeting the criteria  
19 of subdivision (b) at the densities or with the concessions or  
20 incentives permitted by this section. An applicant may submit to  
21 a city, county, or city and county a proposal for the waiver or  
22 reduction of development standards that will have the effect of  
23 physically precluding the construction of a development meeting  
24 the criteria of subdivision (b) at the densities or with the  
25 concessions or incentives permitted under this section, and may  
26 request a meeting with the city, county, or city and county. If a  
27 court finds that the refusal to grant a waiver or reduction of  
28 development standards is in violation of this section, the court  
29 shall award the plaintiff reasonable attorney's fees and costs of  
30 suit. Nothing in this subdivision shall be interpreted to require a  
31 local government to waive or reduce development standards if the  
32 waiver or reduction would have a specific, adverse impact, as  
33 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 waive or reduce  
38 development standards that would have an adverse impact on any  
39 real property that is listed in the California Register of Historical

1 Resources, or to grant any waiver or reduction that would be  
2 contrary to state or federal law.

3 (2) A proposal for the waiver or reduction of development  
4 standards pursuant to this subdivision shall neither reduce nor  
5 increase the number of incentives or concessions to which the  
6 applicant is entitled pursuant to subdivision (d).

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

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

	Percentage Low-Income Units	Percentage Density Bonus
18		
19		
20		
21	10	20
22	11	21.5
23	12	23
24	13	24.5
25	14	26
26	15	27.5
27	17	30.5
28	18	32
29	19	33.5
30	20	35

31  
32 (2) For housing developments meeting the criteria of  
33 subparagraph (B) of paragraph (1) of subdivision (b), the density  
34 bonus shall be calculated as follows:

	Percentage Very Low Income Units	Percentage Density Bonus
35		
36		
37	5	20
38	6	22.5
39	7	25
40	8	27.5

1	9	30
2	10	32.5
3	11	35

4  
5 (3) For housing developments meeting the criteria of  
6 subparagraph (C) of paragraph (1) of subdivision (b), the density  
7 bonus shall be 20 percent of the number of senior housing units.

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

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

1	38	33
2	39	34
3	40	35

4

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

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

16

17	Percentage Very Low Income	Percentage Density Bonus
18	10	15
19	11	16
20	12	17
21	13	18
22	14	19
23	15	20
24	16	21
25	17	22
26	18	23
27	19	24
28	20	25
29	21	26
30	22	27
31	23	28
32	24	29
33	25	30
34	26	31
35	27	32
36	28	33
37	29	34
38	30	35

39

1 (2) This increase shall be in addition to any increase in density  
2 mandated by subdivision (b), up to a maximum combined mandated  
3 density increase of 35 percent if an applicant seeks an increase  
4 pursuant to both this subdivision and subdivision (b). All density  
5 calculations resulting in fractional units shall be rounded up to the  
6 next whole number. Nothing in this subdivision shall be construed  
7 to enlarge or diminish the authority of a city, county, or city and  
8 county to require a developer to donate land as a condition of  
9 development. An applicant shall be eligible for the increased  
10 density bonus described in this subdivision if all of the following  
11 conditions are met:

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

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

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

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

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

1 (F) The land is transferred to the local agency or to a housing  
2 developer approved by the local agency. The local agency may  
3 require the applicant to identify and transfer the land to the  
4 developer.

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

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

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

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

20 (B) An additional concession or incentive that contributes  
21 significantly to the economic feasibility of the construction of the  
22 child care facility.

23 (2) The city, county, or city and county shall require, as a  
24 condition of approving the housing development, that the following  
25 occur:

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

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

37 (3) Notwithstanding any requirement of this subdivision, a city,  
38 county, or city and county shall not be required to provide a density  
39 bonus or concession for a child care facility if it finds, based upon

1 substantial evidence, that the community has adequate child care  
2 facilities.

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

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

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

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

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

34 (1) A reduction in site development standards or a modification  
35 of zoning code requirements or architectural design requirements  
36 that exceed the minimum building standards approved by the  
37 California Building Standards Commission as provided in Part 2.5  
38 (commencing with Section 18901) of Division 13 of the Health  
39 and Safety Code, including, but not limited to, a reduction in  
40 setback and square footage requirements and in the ratio of



1 vehicular parking spaces that would otherwise be required that  
2 results in identifiable, financially sufficient, and actual cost  
3 reductions.

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

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

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

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

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

28 (o) For purposes of this section, the following definitions shall  
29 apply:

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

37 (2) "Maximum allowable residential density" means the density  
38 allowed under the zoning ordinance and land use element of the  
39 general plan, or if a range of density is permitted, means the  
40 maximum allowable density for the specific zoning range and land

1 use element of the general plan applicable to the project. Where  
 2 the density allowed under the zoning ordinance is inconsistent  
 3 with the density allowed under the land use element of the general  
 4 plan, the general plan density shall prevail.

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

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

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

23 (3) Notwithstanding paragraph (1), if a development consists  
 24 solely of rental units, exclusive of a manager’s unit or units, with  
 25 an affordable housing cost to lower income families, as provided  
 26 in Section 50052.5 of the Health and Safety Code, then, upon the  
 27 request of the developer, a city, county, or city and county shall  
 28 not impose a ~~minimum~~ vehicular parking ~~requirement~~, ~~if the~~  
 29 ~~development meets any of the following criteria:~~ *ratio, inclusive*  
 30 *of handicapped and guest parking, that exceeds the following*  
 31 *ratios:*

- 32 (A) ~~The~~ *If the* development is located within one-half mile of  
 33 a major transit stop, as defined in subdivision (b) of Section 21155  
 34 of the Public Resources Code, and there is unobstructed access to  
 35 the major transit stop from the ~~development~~. *development, the*  
 36 *ratio shall not exceed 0.5 spaces per unit.* For purposes of this  
 37 paragraph, a development shall have unobstructed access to the  
 38 major transit stop if a resident is able to ~~walk to~~ *access* the major  
 39 transit stop without encountering natural or constructed  
 40 impediments.

1 (B) ~~The~~ *If the development is a for-rent housing development*  
2 *for individuals who are 62 years of age or older that complies with*  
3 *Sections 51.2 and 51.3 of the Civil Code. Code, the ratio shall not*  
4 *exceed 0.5 spaces per unit. The development shall have either*  
5 *paratransit service or be located within one-half mile of fixed bus*  
6 *route service that operates at least eight times per day.*

7 (C) ~~The~~ *If the development is a special needs housing*  
8 *development, as defined in Section 51312 of the Health and Safety*  
9 *Code. Code, the ratio shall not exceed 0.3 spaces per unit. The*  
10 *development shall have either paratransit service or be located*  
11 *within one-half mile of fixed bus route service that operates at*  
12 *least eight times per day.*

13 (4) If the total number of parking spaces required for a  
14 development is other than a whole number, the number shall be  
15 rounded up to the next whole number. For purposes of this  
16 subdivision, a development may provide on-site parking through  
17 tandem parking or uncovered parking, but not through on-street  
18 parking.

19 (5) This subdivision shall apply to a development that meets  
20 the requirements of subdivisions (b) and (c), but only at the request  
21 of the applicant. An applicant may request parking incentives or  
22 concessions beyond those provided in this subdivision pursuant  
23 to subdivision (d).

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

27 (7) Notwithstanding paragraphs (2) and (3), if a city, county or  
28 city and county has conducted an area-wide or jurisdiction-wide  
29 parking study in the last ~~5~~ *seven* years, then the city, county, or  
30 city and county may impose a higher vehicular parking ratio not  
31 to exceed the ratio described in paragraph (1), based upon  
32 substantial evidence found in the parking study conducted by an  
33 independent consultant, that includes, but is not limited to, an  
34 analysis of parking availability, differing levels of transit access,  
35 walkability access to transit services, the potential for shared  
36 parking, and the effect of parking requirements on the cost of  
37 market-rate and subsidized developments. The city, county, or city  
38 and county shall make findings supporting the need for the higher  
39 parking ratio.

1     SEC. 3. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

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