

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2501

**Introduced by Assembly Members Bloom and Low
(Coauthor: Assembly Member Daly)**

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Bloom. Housing: density bonuses.

Existing law, the Planning and Zoning Law, requires, when an applicant 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 for 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-,~~ *very low income, low-income,* or moderate-income households or qualifying residents. Existing law authorizes the waiver or reduction of development standards that would preclude this development. Existing law requires continued affordability for 55 years or longer, as

specified, of all very low *income* and low-income units that qualified an applicant for a density bonus. Existing law requires a city, county, or city and county to adopt an ordinance to implement these requirements and to establish procedures to carry them out.

This bill would revise and recast these provisions to require the local government to adopt procedures and timelines for processing a density bonus application, provide a list of documents and information required to be submitted with the application in order for it to be deemed complete, and notify the applicant whether it is complete. By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would prohibit a local government from requiring additional reports or studies to be prepared as a condition of an application. The bill would additionally require each component of any density calculation that results in fractional units to be rounded up to the next whole number, and would provide that this provision is declaratory of existing law.

Existing law defines the term “density bonus” for these purposes to mean a density increase over the otherwise maximum allowable residential density as of the date of the application and provides that the applicant may elect to accept a lesser percentage of density bonus.

This bill would specify that the term “density bonus” means a density increase over the maximum allowable gross residential density at the time of the date of the application, or, if elected by the applicant, a lesser percentage of density increase or no increase in density.

Existing law requires a local government to grant a proposal for specific incentives or concessions requested by an applicant unless the local government makes written findings, based on substantial evidence, that, among other things, the concession or incentive is not required in order to provide affordable housing costs or for rents for the targeted units, as specified.

This bill would, instead, provide that the local government is required to provide the requested concessions or incentives unless it finds, based on substantial evidence, that the concession or incentive does not result in identifiable and actual cost reductions, to provide for affordable housing costs or rents for the targeted units, as specified.

Existing law defines the term “housing development” for these purposes to mean a development project for ~~five~~ 5 or more residential units.

This bill would expand that definition to include mixed-use housing.

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 no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes to Section 65915 of the Government Code, proposed by AB 2442 and AB 2556, that would become operative only if this bill and either or both of those bills are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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

3 65915. (a) (1) When an applicant seeks a density bonus for
4 a housing development within, or for the donation of land for
5 housing within, the jurisdiction of a city, county, or city and county,
6 that local government shall comply with this section. A city,
7 county, or city and county shall adopt an ordinance that specifies
8 how compliance with this section will be implemented. Failure to
9 adopt an ordinance shall not relieve a city, county, or city and
10 county from complying with this section.

11 (2) A local government shall not condition the submission,
12 review, or approval of an application pursuant to this chapter on
13 the preparation of an additional report or study that is not otherwise
14 required by state law, including this section. This subdivision does
15 not prohibit a local government from requiring an applicant to
16 provide reasonable documentation to establish eligibility for a
17 requested density bonus, incentives or concessions, as described
18 in subdivision (d), waivers or reductions of development standards,
19 as described in subdivision (e), and parking ratios, as described in
20 subdivision (p).

21 (3) In order to provide for the expeditious processing of a density
22 bonus application, the local government shall do all of the
23 following:

24 (A) Adopt procedures and timelines for processing a density
25 bonus application.

1 (B) Provide a list of all documents and information required to
2 be submitted with the density bonus application in order for the
3 density bonus application to be deemed complete. This list shall
4 be consistent with this chapter.

5 (C) Notify the applicant for a density bonus whether the
6 application is complete in a manner consistent with Section 65943.

7 (b) (1) A city, county, or city and county shall grant one density
8 bonus, the amount of which shall be as specified in subdivision
9 (f), and, if requested by the applicant and consistent with the
10 applicable requirements of this section, incentives or concessions,
11 as described in subdivision (d), waivers or reductions of
12 development standards, as described in subdivision (e), and parking
13 ratios, as described in subdivision (p), when an applicant for a
14 housing development seeks and agrees to construct a housing
15 development, excluding any units permitted by the density bonus
16 awarded pursuant to this section, that will contain at least any one
17 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 a 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), an 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, the 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, inclusive of the units
14 replaced pursuant to this paragraph, contains affordable units at
15 the percentages set forth in subdivision (b).

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

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

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

39 (ii) If all dwelling units described in subparagraph (A) have
40 been vacated or demolished within the five-year period preceding

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

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

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

33 (A) The concession or incentive does not result in identifiable
34 and actual cost reductions, consistent with subdivision (k), 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-~~ *low-income* 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 (4) The city, county, or city and county shall bear the burden
4 of proof for the denial of a requested concession or incentive.

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

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

35 (f) For the purposes of this chapter, "density bonus" means a
36 density increase over the otherwise maximum allowable gross
37 residential density as of the date of application by the applicant to
38 the city, county, or city and county, or, if elected by the applicant,
39 a lesser percentage of density increase, including, but not limited
40 to, no increase in density. The amount of density increase to which

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

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

	Percentage Low-Income Units	Percentage Density Bonus
7		
8		
9		
10	10	20
11	11	21.5
12	12	23
13	13	24.5
14	14	26
15	15	27.5
16	17	30.5
17	18	32
18	19	33.5
19	20	35
20		

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

	Percentage Very Low Income Units	Percentage Density Bonus
24		
25		
26	5	20
27	6	22.5
28	7	25
29	8	27.5
30	9	30
31	10	32.5
32	11	35
33		

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (j) (1) The granting of a concession or incentive shall not require
14 or be interpreted, in and of itself, to require a general plan
15 amendment, local coastal plan amendment, zoning change, study,
16 or other discretionary approval. For purposes of this subdivision,
17 “study” does not include reasonable documentation to establish
18 eligibility for the concession or incentive or to demonstrate that
19 the incentive or concession meets the definition set forth in
20 subdivision (k). This provision is declaratory of existing law.

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

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

27 (1) A reduction in site development standards or a modification
28 of zoning code requirements or architectural design requirements
29 that exceed the minimum building standards approved by the
30 California Building Standards Commission as provided in Part 2.5
31 (commencing with Section 18901) of Division 13 of the Health
32 and Safety Code, including, but not limited to, a reduction in
33 setback and square footage requirements and in the ratio of
34 vehicular parking spaces that would otherwise be required that
35 results in identifiable and actual cost reductions, to provide for
36 affordable housing costs, as defined in Section 50052.5 of the
37 Health and Safety Code, or for rents for the targeted units to be
38 set as specified in subdivision (c).

39 (2) Approval of mixed-use zoning in conjunction with the
40 housing project if commercial, office, industrial, or other land uses

1 will reduce the cost of the housing development and if the
 2 commercial, office, industrial, or other land uses are compatible
 3 with the housing project and the existing or planned development
 4 in the area where the proposed housing project will be located.

5 (3) Other regulatory incentives or concessions proposed by the
 6 developer or the city, county, or city and county that result in
 7 identifiable and actual cost reductions to provide for affordable
 8 housing costs, as defined in Section 50052.5 of the Health and
 9 Safety Code, or for rents for the targeted units to be set as specified
 10 in subdivision (c). ~~In no case shall this include an increase in~~
 11 ~~density above the percentages specified in subdivision (f).~~

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

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

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

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

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

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

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

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

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

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

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

12 (2) Notwithstanding paragraph (1), if a development includes
13 the maximum percentage of ~~low-~~ *low-income* or very low income
14 units provided for in paragraphs (1) and (2) of subdivision (f) and
15 is located within one-half mile of a major transit stop, as defined
16 in subdivision (b) of Section 21155 of the Public Resources Code,
17 and there is unobstructed access to the major transit stop from the
18 development, then, upon the request of the developer, a city,
19 county, or city and county shall not impose a vehicular parking
20 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
21 spaces per bedroom. For purposes of this subdivision, a
22 development shall have unobstructed access to a major transit stop
23 if a resident is able to access the major transit stop without
24 encountering natural or constructed impediments.

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

32 (A) If the development is located within one-half mile of a major
33 transit stop, as defined in subdivision (b) of Section 21155 of the
34 Public Resources Code, and there is unobstructed access to the
35 major transit stop from the development, the ratio shall not exceed
36 0.5 spaces per unit.

37 (B) If the development is a for-rent housing development for
38 individuals who are 62 years of age or older that complies with
39 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
40 0.5 spaces per unit. The development shall have either paratransit

1 service or unobstructed access, within one-half mile, to fixed bus
2 route service that operates at least eight times per day.

3 (C) If the development is a special needs housing development,
4 as defined in Section 51312 of the Health and Safety Code, the
5 ratio shall not exceed 0.3 spaces per unit. The development shall
6 have either paratransit service or unobstructed access, within
7 one-half mile, to fixed bus route service that operates at least eight
8 times per day.

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

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

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

23 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
24 city and county, or an independent consultant has conducted an
25 areawide or jurisdictionwide parking study in the last seven years,
26 then the city, county, or city and county may impose a higher
27 vehicular parking ratio not to exceed the ratio described in
28 paragraph (1), based upon substantial evidence found in the parking
29 study, that includes, but is not limited to, an analysis of parking
30 availability, differing levels of transit access, walkability access
31 to transit services, the potential for shared parking, the effect of
32 parking requirements on the cost of market-rate and subsidized
33 developments, and the lower rates of car ownership for ~~low-~~
34 *low-income* and very low income individuals, including seniors
35 and special needs individuals. The city, county, or city and county
36 shall pay the costs of any new study. The city, county, or city and
37 county shall make findings, based on a parking study completed
38 in conformity with this paragraph, supporting the need for the
39 higher parking ratio.

1 (8) A request pursuant to this subdivision shall neither reduce
2 nor increase the number of incentives or concessions to which the
3 applicant is entitled pursuant to subdivision (d).

4 (q) Each component of any density calculation, including base
5 density and bonus density, resulting in fractional units shall ~~by~~ *be*
6 separately rounded up to the next whole number. The Legislature
7 finds and declares that this provision is declaratory of existing law.

8 (r) This chapter shall be interpreted liberally in favor of
9 producing the maximum number of total housing units.

10 *SEC. 1.3. Section 65915 of the Government Code is amended*
11 *to read:*

12 65915. (a) (1) When an applicant seeks a density bonus for
13 a housing development within, or for the donation of land for
14 housing within, the jurisdiction of a city, county, or city and county,
15 that local government shall ~~provide the applicant with incentives~~
16 ~~or concessions for the production of housing units and child care~~
17 ~~facilities as prescribed in this section. All cities, counties, or cities~~
18 ~~and counties comply with this section. A city, county, or city and~~
19 ~~county shall adopt an ordinance that specifies how compliance~~
20 ~~with this section will be implemented. Failure to adopt an ordinance~~
21 ~~shall not relieve a city, county, or city and county from complying~~
22 ~~with this section.~~

23 (2) *A local government shall not condition the submission,*
24 *review, or approval of an application pursuant to this chapter on*
25 *the preparation of an additional report or study that is not*
26 *otherwise required by state law, including this section. This*
27 *subdivision does not prohibit a local government from requiring*
28 *an applicant to provide reasonable documentation to establish*
29 *eligibility for a requested density bonus, incentives or concessions,*
30 *as described in subdivision (d), waivers or reductions of*
31 *development standards, as described in subdivision (e), and*
32 *parking ratios, as described in subdivision (p).*

33 (3) *In order to provide for the expeditious processing of a*
34 *density bonus application, the local government shall do all of the*
35 *following:*

36 (A) *Adopt procedures and timelines for processing a density*
37 *bonus application.*

38 (B) *Provide a list of all documents and information required to*
39 *be submitted with the density bonus application in order for the*

1 *density bonus application to be deemed complete. This list shall*
2 *be consistent with this chapter.*

3 (C) *Notify the applicant for a density bonus whether the*
4 *application is complete in a manner consistent with Section 65943.*

5 (b) (1) *A city, county, or city and county shall grant one density*
6 *bonus, the amount of which shall be as specified in subdivision*
7 *(f), ~~and~~ and, if requested by the applicant and consistent with the*
8 *applicable requirements of this section, incentives or concessions,*
9 *as described in subdivision (d), waivers or reductions of*
10 *development standards, as described in subdivision (e), and*
11 *parking ratios, as described in subdivision (p), when an applicant*
12 *for a housing development seeks and agrees to construct a housing*
13 *development, excluding any units permitted by the density bonus*
14 *awarded pursuant to this section, that will contain at least any one*
15 *of the following:*

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

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

22 (C) *A senior citizen housing development, as defined in Sections*
23 *51.3 and 51.12 of the Civil Code, or a mobilehome park that limits*
24 *residency based on age requirements for housing for older persons*
25 *pursuant to Section 798.76 or 799.5 of the Civil Code.*

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

31 (E) *Ten percent of the total units of a housing development for*
32 *transitional foster youth, as defined in Section 66025.9 of the*
33 *Education Code, disabled veterans, as defined in Section 18541,*
34 *or homeless persons, as defined in the federal McKinney-Vento*
35 *Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units*
36 *described in this subparagraph shall be subject to a recorded*
37 *affordability restriction of 55 years and shall be provided at the*
38 *same affordability level as very low income units.*

39 (2) *For purposes of calculating the amount of the density bonus*
40 *pursuant to subdivision (f), an applicant who requests a density*

1 bonus pursuant to this subdivision shall elect whether the bonus
2 shall be awarded on the basis of subparagraph (A), (B), (C), ~~or (D)~~
3 ~~(D)~~, or (E) of paragraph (1).

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

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

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

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

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

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

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

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

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

22 (ii) Each unit in the development, exclusive of a manager’s unit
23 or units, is affordable to, and occupied by, either a lower or very
24 low income household.

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

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

1 number. If the replacement units will be rental dwelling units,
2 these units shall be subject to a recorded affordability restriction
3 for at least 55 years. If the proposed development is for-sale units,
4 the units replaced shall be subject to paragraph (2).

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

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

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

39 (A) The concession or incentive ~~is does not required in order~~
40 *result in identifiable and actual cost reductions, consistent with*

1 *subdivision (k)*, to provide for affordable housing costs, as defined
2 in Section 50052.5 of the Health and Safety Code, or for rents for
3 the targeted units to be set as specified in subdivision (c).

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

12 (C) The concession or incentive would be contrary to state or
13 federal law.

14 (2) The applicant shall receive the following number of
15 incentives or concessions:

16 (A) One incentive or concession for projects that include at least
17 10 percent of the total units for lower income households, at least
18 5 percent for very low income households, or at least 10 percent
19 for persons and families of moderate income in a common interest
20 development.

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

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

31 (3) The applicant may initiate judicial proceedings if the city,
32 county, or city and county refuses to grant a requested density
33 bonus, incentive, or concession. If a court finds that the refusal to
34 grant a requested density bonus, incentive, or concession is in
35 violation of this section, the court shall award the plaintiff
36 reasonable attorney's fees and costs of suit. Nothing in this
37 subdivision shall be interpreted to require a local government to
38 grant an incentive or concession that has a specific, adverse impact,
39 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
40 upon health, safety, or the physical environment, and for which

1 there is no feasible method to satisfactorily mitigate or avoid the
2 specific adverse impact. Nothing in this subdivision shall be
3 interpreted to require a local government to grant an incentive or
4 concession that would have an adverse impact on any real property
5 that is listed in the California Register of Historical Resources.
6 The city, county, or city and county shall establish procedures for
7 carrying out this section, that shall include legislative body
8 approval of the means of compliance with this section.

9 *(4) The city, county, or city and county shall bear the burden*
10 *of proof for the denial of a requested concession or incentive.*

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

37 (2) A proposal for the waiver or reduction of development
38 standards pursuant to this subdivision shall neither reduce nor
39 increase the number of incentives or concessions to which the
40 applicant is entitled pursuant to subdivision (d).

1 (f) For the purposes of this chapter, “density bonus” means a
 2 density increase over the otherwise maximum allowable *gross*
 3 residential density as of the date of application by the applicant to
 4 the city, county, or city and ~~county~~. ~~The applicant may elect to~~
 5 ~~accept county, or, if elected by the applicant,~~ a lesser percentage
 6 of density ~~bonus~~: *increase, including, but not limited to, no increase*
 7 *in density*. The amount of density ~~bonus~~ *increase* to which the
 8 applicant is entitled shall vary according to the amount by which
 9 the percentage of affordable housing units exceeds the percentage
 10 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
15		
16		
17	10	20
18	11	21.5
19	12	23
20	13	24.5
21	14	26
22	15	27.5
23	17	30.5
24	18	32
25	19	33.5
26	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
31		
32		
33	5	20
34	6	22.5
35	7	25
36	8	27.5
37	9	30
38	10	32.5
39	11	35

40

1 (3) (A) 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 (B) *For housing developments meeting the criteria of*
5 *subparagraph (E) of paragraph (1) of subdivision (b), the density*
6 *bonus shall be 20 percent of the number of the type of units giving*
7 *rise to a density bonus under that subparagraph.*

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

25 (j) (1) The granting of a concession or incentive shall not
26 *require, or be interpreted, in and of itself, to require a general plan*
27 *amendment, local coastal plan amendment, zoning change, study,*
28 *or other discretionary approval. For purposes of this subdivision,*
29 *“study” does not include reasonable documentation to establish*
30 *eligibility for the concession or incentive or to demonstrate that*
31 *the incentive or concession meets the definition set forth in*
32 *subdivision (k).* This provision is declaratory of existing law.

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

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

39 (1) A reduction in site development standards or a modification
40 of zoning code requirements or architectural design requirements

1 that exceed the minimum building standards approved by the
2 California Building Standards Commission as provided in Part 2.5
3 (commencing with Section 18901) of Division 13 of the Health
4 and Safety Code, including, but not limited to, a reduction in
5 setback and square footage requirements and in the ratio of
6 vehicular parking spaces that would otherwise be required that
7 results in ~~identifiable, financially sufficient~~, *identifiable* and actual
8 cost ~~reductions~~; *reductions, to provide for affordable housing costs,*
9 *as defined in Section 50052.5 of the Health and Safety Code, or*
10 *for rents for the targeted units to be set as specified in subdivision*
11 *(c).*

12 (2) Approval of mixed-use zoning in conjunction with the
13 housing project if commercial, office, industrial, or other land uses
14 will reduce the cost of the housing development and if the
15 commercial, office, industrial, or other land uses are compatible
16 with the housing project and the existing or planned development
17 in the area where the proposed housing project will be located.

18 (3) Other regulatory incentives or concessions proposed by the
19 developer or the city, county, or city and county that result in
20 ~~identifiable, financially sufficient~~, *identifiable* and actual cost
21 ~~reductions~~; *reductions to provide for affordable housing costs, as*
22 *defined in Section 50052.5 of the Health and Safety Code, or for*
23 *rents for the targeted units to be set as specified in subdivision (c).*

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

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

32 (n) If permitted by local ordinance, nothing in this section shall
33 be construed to prohibit a city, county, or city and county from
34 granting a density bonus greater than what is described in this
35 section for a development that meets the requirements of this
36 section or from granting a proportionately lower density bonus
37 than what is required by this section for developments that do not
38 meet the requirements of this section.

39 (o) For purposes of this section, the following definitions shall
40 apply:

1 (1) “Development standard” includes a site or construction
2 condition, including, but not limited to, a height limitation, a
3 setback requirement, a floor area ratio, an onsite open-space
4 requirement, or a parking ratio that applies to a residential
5 development pursuant to any ordinance, general plan element,
6 specific plan, charter, or other local condition, law, policy,
7 resolution, or regulation.

8 (2) “Maximum allowable residential density” means the density
9 allowed under the zoning ordinance and land use element of the
10 general plan, ~~or~~ if a range of density is permitted, means the
11 maximum allowable density for the specific zoning range and land
12 use element of the general plan applicable to the project. Where
13 the density allowed under the zoning ordinance is inconsistent
14 with the density allowed under the land use element of the general
15 plan, the general plan density shall prevail.

16 (p) (1) Except as provided in paragraphs (2) and (3), upon the
17 request of the developer, a city, county, or city and county shall
18 not require a vehicular parking ratio, inclusive of handicapped and
19 guest parking, of a development meeting the criteria of subdivisions
20 (b) and (c), that exceeds the following ratios:

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

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

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

24 (2) Notwithstanding paragraph (1), if a development includes
25 the maximum percentage of ~~low-~~ *low-income* or very low income
26 units provided for in paragraphs (1) and (2) of subdivision (f) and
27 is located within one-half mile of a major transit stop, as defined
28 in subdivision (b) of Section 21155 of the Public Resources Code,
29 and there is unobstructed access to the major transit stop from the
30 development, then, upon the request of the developer, a city,
31 county, or city and county shall not impose a vehicular parking
32 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
33 spaces per bedroom. For purposes of this subdivision, a
34 development shall have unobstructed access to a major transit stop
35 if a resident is able to access the major transit stop without
36 encountering natural or constructed impediments.

37 (3) Notwithstanding paragraph (1), if a development consists
38 solely of rental units, exclusive of a manager’s unit or units, with
39 an affordable housing cost to lower income families, as provided
40 in Section 50052.5 of the Health and Safety Code, then, upon the

1 request of the developer, a city, county, or city and county shall
 2 not impose a vehicular parking ratio, inclusive of handicapped and
 3 guest parking, that exceeds the following ratios:

4 (A) If the development is located within one-half mile of a major
 5 transit stop, as defined in subdivision (b) of Section 21155 of the
 6 Public Resources Code, and there is unobstructed access to the
 7 major transit stop from the development, the ratio shall not exceed
 8 0.5 spaces per unit.

9 (B) If the development is a for-rent housing development for
 10 individuals who are 62 years of age or older that complies with
 11 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
 12 0.5 spaces per unit. The development shall have either paratransit
 13 service or unobstructed access, within one-half mile, to fixed bus
 14 route service that operates at least eight times per day.

15 (C) If the development is a special needs housing development,
 16 as defined in Section 51312 of the Health and Safety Code, the
 17 ratio shall not exceed 0.3 spaces per unit. The development shall
 18 have either paratransit service or unobstructed access, within
 19 one-half mile, to fixed bus route service that operates at least eight
 20 times per day.

21 (4) If the total number of parking spaces required for a
 22 development is other than a whole number, the number shall be
 23 rounded up to the next whole number. For purposes of this
 24 subdivision, a development may provide ~~on-site~~ *onsite* parking
 25 through tandem parking or uncovered parking, but not through
 26 ~~on-street~~ *onstreet* parking.

27 (5) This subdivision shall apply to a development that meets
 28 the requirements of subdivisions (b) and (c), but only at the request
 29 of the applicant. An applicant may request parking incentives or
 30 concessions beyond those provided in this subdivision pursuant
 31 to subdivision (d).

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

35 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
 36 city and county, or an independent consultant has conducted an
 37 areawide or jurisdictionwide parking study in the last seven years,
 38 then the city, county, or city and county may impose a higher
 39 vehicular parking ratio not to exceed the ratio described in
 40 paragraph (1), based upon substantial evidence found in the parking

1 study, that includes, but is not limited to, an analysis of parking
2 availability, differing levels of transit access, walkability access
3 to transit services, the potential for shared parking, the effect of
4 parking requirements on the cost of market-rate and subsidized
5 developments, and the lower rates of car ownership for ~~low-~~
6 *low-income* and very low income individuals, including seniors
7 and special needs individuals. The city, county, or city and county
8 shall pay the costs of any new study. The city, county, or city and
9 county shall make findings, based on a parking study completed
10 in conformity with this paragraph, supporting the need for the
11 higher parking ratio.

12 *(8) A request pursuant to this subdivision shall neither reduce*
13 *nor increase the number of incentives or concessions to which the*
14 *applicant is entitled pursuant to subdivision (d).*

15 *(q) Each component of any density calculation, including base*
16 *density and bonus density, resulting in fractional units shall be*
17 *separately rounded up to the next whole number. The Legislature*
18 *finds and declares that this provision is declaratory of existing*
19 *law.*

20 *(r) This chapter shall be interpreted liberally in favor of*
21 *producing the maximum number of total housing units.*

22 *SEC. 1.5. Section 65915 of the Government Code is amended*
23 *to read:*

24 65915. (a) (1) When an applicant seeks a density bonus for
25 a housing development within, or for the donation of land for
26 housing within, the jurisdiction of a city, county, or city and county,
27 that local government shall ~~provide the applicant with incentives~~
28 ~~or concessions for the production of housing units and child care~~
29 ~~facilities as prescribed in this section. All cities, counties, or cities~~
30 ~~and counties comply with this section. A city, county, or city and~~
31 *county shall adopt an ordinance that specifies how compliance*
32 *with this section will be implemented. Failure to adopt an ordinance*
33 *shall not relieve a city, county, or city and county from complying*
34 *with this section.*

35 *(2) A local government shall not condition the submission,*
36 *review, or approval of an application pursuant to this chapter on*
37 *the preparation of an additional report or study that is not*
38 *otherwise required by state law, including this section. This*
39 *subdivision does not prohibit a local government from requiring*
40 *an applicant to provide reasonable documentation to establish*

1 *eligibility for a requested density bonus, incentives or concessions,*
 2 *as described in subdivision (d), waivers or reductions of*
 3 *development standards, as described in subdivision (e), and*
 4 *parking ratios, as described in subdivision (p).*

5 *(3) In order to provide for the expeditious processing of a*
 6 *density bonus application, the local government shall do all of the*
 7 *following:*

8 *(A) Adopt procedures and timelines for processing a density*
 9 *bonus application.*

10 *(B) Provide a list of all documents and information required to*
 11 *be submitted with the density bonus application in order for the*
 12 *density bonus application to be deemed complete. This list shall*
 13 *be consistent with this chapter.*

14 *(C) Notify the applicant for a density bonus whether the*
 15 *application is complete in a manner consistent with Section 65943.*

16 *(b) (1) A city, county, or city and county shall grant one density*
 17 *bonus, the amount of which shall be as specified in subdivision*
 18 *(f), ~~and~~ and, if requested by the applicant and consistent with the*
 19 *applicable requirements of this section, incentives or concessions,*
 20 *as described in subdivision (d), waivers or reductions of*
 21 *development standards, as described in subdivision (e), and*
 22 *parking ratios, as described in subdivision (p), when an applicant*
 23 *for a housing development seeks and agrees to construct a housing*
 24 *development, excluding any units permitted by the density bonus*
 25 *awarded pursuant to this section, that will contain at least any one*
 26 *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. *If the income category of the household in occupancy*
37 *is not known, it shall be rebuttably presumed that lower income*
38 *renter households occupied these units in the same proportion of*
39 *lower income renter households to all renter households within*
40 *the jurisdiction, as determined by the most recently available data*

1 *from the United States Department of Housing and Urban*
2 *Development's Comprehensive Housing Affordability Strategy*
3 *database. For unoccupied dwelling units described in subparagraph*
4 *(A) in a development with occupied units, the proposed housing*
5 *development shall provide units of equivalent size or type, or both,*
6 *to be made available at affordable rent or affordable housing cost*
7 *to, and occupied by, persons and families in the same or lower*
8 *income category in the same proportion of affordability as the*
9 ~~*occupied units. as the last household in occupancy. If the income*~~
10 ~~*category of the last household in occupancy is not known, it shall*~~
11 ~~*be rebuttably presumed that lower income renter households*~~
12 ~~*occupied these units in the same proportion of lower income renter*~~
13 ~~*households to all renter households within the jurisdiction, as*~~
14 ~~*determined by the most recently available data from the United*~~
15 ~~*States Department of Housing and Urban Development's*~~
16 ~~*Comprehensive Housing Affordability Strategy database. All*~~
17 ~~*replacement calculations resulting in fractional units shall be*~~
18 ~~*rounded up to the next whole number. If the replacement units will*~~
19 ~~*be rental dwelling units, these units shall be subject to a recorded*~~
20 ~~*affordability restriction for at least 55 years. If the proposed*~~
21 ~~*development is for-sale units, the units replaced shall be subject*~~
22 ~~*to paragraph (2).*~~

23 (ii) If all dwelling units described in subparagraph (A) have
24 been vacated or demolished within the five-year period preceding
25 the application, the proposed housing development shall provide
26 at least the same number of units of equivalent size or type, or
27 both, as existed at the highpoint of those units in the five-year
28 period preceding the application to be made available at affordable
29 rent or affordable housing cost to, and occupied by, persons and
30 families in the same or lower income category as those persons
31 and families in occupancy at that time, if known. If the incomes
32 of the persons and families in occupancy at the highpoint is not
33 known, ~~then one-half of the required units shall be made available~~
34 ~~at affordable rent or affordable housing cost to, and occupied by,~~
35 ~~it shall be rebuttably presumed that low-income and very low~~
36 ~~income renter households occupied these units in the same~~
37 ~~proportion of low-income and very low income persons and~~
38 ~~families and one-half of the required units shall be made available~~
39 ~~for rent at affordable housing costs to, and occupied by,~~
40 ~~low-income persons and families. renter households to all renter~~

1 households within the jurisdiction, as determined by the most
2 recently available data from the United States Department of
3 Housing and Urban Development's Comprehensive Housing
4 Affordability Strategy database. All replacement calculations
5 resulting in fractional units shall be rounded up to the next whole
6 number. If the replacement units will be rental dwelling units,
7 these units shall be subject to a recorded affordability restriction
8 for at least 55 years. If the proposed development is for-sale units,
9 the units replaced shall be subject to paragraph (2).

10 (C) Notwithstanding subparagraph (B), for any dwelling unit
11 described in subparagraph (A) that is or was, within the five-year
12 period preceding the application, subject to a form of rent or price
13 control through a local government's valid exercise of its police
14 power and that is or was occupied by persons or families above
15 lower income, the city, county, or city and county may do either
16 of the following:

17 (i) Require that the replacement units be made available at
18 affordable rent or affordable housing cost to, and occupied by,
19 low-income persons or families. If the replacement units will be
20 rental dwelling units, these units shall be subject to a recorded
21 affordability restriction for at least 55 years. If the proposed
22 development is for-sale units, the units replaced shall be subject
23 to paragraph (2).

24 (ii) Require that the units be replaced in compliance with the
25 jurisdiction's rent or price control ordinance, provided that each
26 unit described in subparagraph (A) is replaced. Unless otherwise
27 required by the jurisdiction's rent or price control ordinance, these
28 units shall not be subject to a recorded affordability restriction.

29 (D) For purposes of this paragraph, "equivalent size" means
30 that the replacement units contain at least the same total number
31 of bedrooms as the units being replaced.

32 ~~(C) Paragraph (3) of subdivision (e)~~

33 (E) Subparagraph (A) does not apply to an applicant seeking
34 a density bonus for a proposed housing development if his or her
35 application was submitted to, or processed by, a city, county, or
36 city and county before January 1, 2015.

37 (d) (1) An applicant for a density bonus pursuant to subdivision
38 (b) may submit to a city, county, or city and county a proposal for
39 the specific incentives or concessions that the applicant requests
40 pursuant to this section, and may request a meeting with the city,

1 county, or city and county. The city, county, or city and county
2 shall grant the concession or incentive requested by the applicant
3 unless the city, county, or city and county makes a written finding,
4 based upon substantial evidence, of any of the following:

5 (A) The concession or incentive ~~is does not required in order~~
6 *result in identifiable and actual cost reductions, consistent with*
7 *subdivision (k)*, to provide for affordable housing costs, as defined
8 in Section 50052.5 of the Health and Safety Code, or for rents for
9 the targeted units to be set as specified in subdivision (c).

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

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

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

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

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

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

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

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

15 *(4) The city, county, or city and county shall bear the burden*
16 *of proof for the denial of a requested concession or incentive.*

17 (e) (1) In no case may a city, county, or city and county apply
18 any development standard that will have the effect of physically
19 precluding the construction of a development meeting the criteria
20 of subdivision (b) at the densities or with the concessions or
21 incentives permitted by this section. An applicant may submit to
22 a city, county, or city and county a proposal for the waiver or
23 reduction of development standards that will have the effect of
24 physically precluding the construction of a development meeting
25 the criteria of subdivision (b) at the densities or with the
26 concessions or incentives permitted under this section, and may
27 request a meeting with the city, county, or city and county. If a
28 court finds that the refusal to grant a waiver or reduction of
29 development standards is in violation of this section, the court
30 shall award the plaintiff reasonable attorney's fees and costs of
31 suit. Nothing in this subdivision shall be interpreted to require a
32 local government to waive or reduce development standards if the
33 waiver or reduction would have a specific, adverse impact, as
34 defined in paragraph (2) of subdivision (d) of Section 65589.5,
35 upon health, safety, or the physical environment, and for which
36 there is no feasible method to satisfactorily mitigate or avoid the
37 specific adverse impact. Nothing in this subdivision shall be
38 interpreted to require a local government to waive or reduce
39 development standards that would have an adverse impact on any
40 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 *gross*
9 residential density as of the date of application by the applicant to
10 the city, county, or city and county. ~~The applicant may elect to~~
11 ~~accept county, or, if elected by the applicant,~~ a lesser percentage
12 of density ~~bonus: increase, including, but not limited to, no increase~~
13 ~~in density.~~ The amount of density ~~bonus increase~~ to which the
14 applicant is entitled shall vary according to the amount by which
15 the percentage of affordable housing units exceeds the percentage
16 established in subdivision (b).

17 (1) For housing developments meeting the criteria of
18 subparagraph (A) of paragraph (1) of subdivision (b), the density
19 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

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

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5

1	7	25
2	8	27.5
3	9	30
4	10	32.5
5	11	35
6		

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

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

13	Percentage Moderate-Income Units	Percentage Density Bonus
14		
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

1	36	31
2	37	32
3	38	33
4	39	34
5	40	35

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

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

18	19 Percentage Very Low Income	Percentage Density Bonus
20	10	15
21	11	16
22	12	17
23	13	18
24	14	19
25	15	20
26	16	21
27	17	22
28	18	23
29	19	24
30	20	25
31	21	26
32	22	27
33	23	28
34	24	29
35	25	30
36	26	31
37	27	32
38	28	33
39	29	34
40	30	35

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

25 (j) (1) The granting of a concession or incentive shall *require*
26 *or* not be interpreted, in and of itself, to require a general plan
27 amendment, local coastal plan amendment, zoning change, *study*,
28 or other discretionary approval. *For purposes of this subdivision,*
29 *“study” does not include reasonable documentation to establish*
30 *eligibility for the concession or incentive or to demonstrate that*
31 *the incentive or concession meets the definition set forth in*
32 *subdivision (k)*. This provision is declaratory of existing law.

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

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

39 (1) A reduction in site development standards or a modification
40 of zoning code requirements or architectural design requirements

1 that exceed the minimum building standards approved by the
2 California Building Standards Commission as provided in Part 2.5
3 (commencing with Section 18901) of Division 13 of the Health
4 and Safety Code, including, but not limited to, a reduction in
5 setback and square footage requirements and in the ratio of
6 vehicular parking spaces that would otherwise be required that
7 results in ~~identifiable, financially sufficient~~, *identifiable* and actual
8 ~~cost reductions~~; *reductions, to provide for affordable housing costs,*
9 *as defined in Section 50052.5 of the Health and Safety Code, or*
10 *for rents for the targeted units to be set as specified in subdivision*
11 *(c).*

12 (2) Approval of mixed-use zoning in conjunction with the
13 housing project if commercial, office, industrial, or other land uses
14 will reduce the cost of the housing development and if the
15 commercial, office, industrial, or other land uses are compatible
16 with the housing project and the existing or planned development
17 in the area where the proposed housing project will be located.

18 (3) Other regulatory incentives or concessions proposed by the
19 developer or the city, county, or city and county that result in
20 ~~identifiable, financially sufficient~~, *identifiable* and actual cost
21 ~~reductions~~; *reductions to provide for affordable housing costs, as*
22 *defined in Section 50052.5 of the Health and Safety Code, or for*
23 *rents for the targeted units to be set as specified in subdivision (c).*

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

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

32 (n) If permitted by local ordinance, nothing in this section shall
33 be construed to prohibit a city, county, or city and county from
34 granting a density bonus greater than what is described in this
35 section for a development that meets the requirements of this
36 section or from granting a proportionately lower density bonus
37 than what is required by this section for developments that do not
38 meet the requirements of this section.

39 (o) For purposes of this section, the following definitions shall
40 apply:

1 (1) “Development standard” includes a site or construction
2 condition, including, but not limited to, a height limitation, a
3 setback requirement, a floor area ratio, an onsite open-space
4 requirement, or a parking ratio that applies to a residential
5 development pursuant to any ordinance, general plan element,
6 specific plan, charter, or other local condition, law, policy,
7 resolution, or regulation.

8 (2) “Maximum allowable residential density” means the density
9 allowed under the zoning ordinance and land use element of the
10 general plan, ~~or~~ if a range of density is permitted, means the
11 maximum allowable density for the specific zoning range and land
12 use element of the general plan applicable to the project. Where
13 the density allowed under the zoning ordinance is inconsistent
14 with the density allowed under the land use element of the general
15 plan, the general plan density shall prevail.

16 (p) (1) Except as provided in paragraphs (2) and (3), upon the
17 request of the developer, a city, county, or city and county shall
18 not require a vehicular parking ratio, inclusive of handicapped and
19 guest parking, of a development meeting the criteria of subdivisions
20 (b) and (c), that exceeds the following ratios:

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

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

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

24 (2) Notwithstanding paragraph (1), if a development includes
25 the maximum percentage of ~~low-~~ low-income or very low income
26 units provided for in paragraphs (1) and (2) of subdivision (f) and
27 is located within one-half mile of a major transit stop, as defined
28 in subdivision (b) of Section 21155 of the Public Resources Code,
29 and there is unobstructed access to the major transit stop from the
30 development, then, upon the request of the developer, a city,
31 county, or city and county shall not impose a vehicular parking
32 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
33 spaces per bedroom. For purposes of this subdivision, a
34 development shall have unobstructed access to a major transit stop
35 if a resident is able to access the major transit stop without
36 encountering natural or constructed impediments.

37 (3) Notwithstanding paragraph (1), if a development consists
38 solely of rental units, exclusive of a manager’s unit or units, with
39 an affordable housing cost to lower income families, as provided
40 in Section 50052.5 of the Health and Safety Code, then, upon the

1 request of the developer, a city, county, or city and county shall
2 not impose a vehicular parking ratio, inclusive of handicapped and
3 guest parking, that exceeds the following ratios:

4 (A) If the development is located within one-half mile of a major
5 transit stop, as defined in subdivision (b) of Section 21155 of the
6 Public Resources Code, and there is unobstructed access to the
7 major transit stop from the development, the ratio shall not exceed
8 0.5 spaces per unit.

9 (B) If the development is a for-rent housing development for
10 individuals who are 62 years of age or older that complies with
11 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
12 0.5 spaces per unit. The development shall have either paratransit
13 service or unobstructed access, within one-half mile, to fixed bus
14 route service that operates at least eight times per day.

15 (C) If the development is a special needs housing development,
16 as defined in Section 51312 of the Health and Safety Code, the
17 ratio shall not exceed 0.3 spaces per unit. The development shall
18 have either paratransit service or unobstructed access, within
19 one-half mile, to fixed bus route service that operates at least eight
20 times per day.

21 (4) If the total number of parking spaces required for a
22 development is other than a whole number, the number shall be
23 rounded up to the next whole number. For purposes of this
24 subdivision, a development may provide on-site parking through
25 tandem parking or uncovered parking, but not through on-street
26 parking.

27 (5) This subdivision shall apply to a development that meets
28 the requirements of subdivisions (b) and (c), but only at the request
29 of the applicant. An applicant may request parking incentives or
30 concessions beyond those provided in this subdivision pursuant
31 to subdivision (d).

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

35 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
36 city and county, or an independent consultant has conducted an
37 areawide or jurisdictionwide parking study in the last seven years,
38 then the city, county, or city and county may impose a higher
39 vehicular parking ratio not to exceed the ratio described in
40 paragraph (1), based upon substantial evidence found in the parking

1 study, that includes, but is not limited to, an analysis of parking
2 availability, differing levels of transit access, walkability access
3 to transit services, the potential for shared parking, the effect of
4 parking requirements on the cost of market-rate and subsidized
5 developments, and the lower rates of car ownership for ~~low-~~
6 *low-income* and very low income individuals, including seniors
7 and special needs individuals. The city, county, or city and county
8 shall pay the costs of any new study. The city, county, or city and
9 county shall make findings, based on a parking study completed
10 in conformity with this paragraph, supporting the need for the
11 higher parking ratio.

12 *(8) A request pursuant to this subdivision shall neither reduce*
13 *nor increase the number of incentives or concessions to which the*
14 *applicant is entitled pursuant to subdivision (d).*

15 *(q) Each component of any density calculation, including base*
16 *density and bonus density, resulting in fractional units shall be*
17 *separately rounded up to the next whole number. The Legislature*
18 *finds and declares that this provision is declaratory of existing*
19 *law.*

20 *(r) This chapter shall be interpreted liberally in favor of*
21 *producing the maximum number of total housing units.*

22 *SEC. 1.7. Section 65915 of the Government Code is amended*
23 *to read:*

24 65915. (a) (1) When an applicant seeks a density bonus for
25 a housing development within, or for the donation of land for
26 housing within, the jurisdiction of a city, county, or city and county,
27 that local government shall ~~provide the applicant with incentives~~
28 ~~or concessions for the production of housing units and child care~~
29 ~~facilities as prescribed in this section. All cities, counties, or cities~~
30 ~~and counties comply with this section. A city, county, or city and~~
31 *county shall adopt an ordinance that specifies how compliance*
32 *with this section will be implemented. Failure to adopt an ordinance*
33 *shall not relieve a city, county, or city and county from complying*
34 *with this section.*

35 *(2) A local government shall not condition the submission,*
36 *review, or approval of an application pursuant to this chapter on*
37 *the preparation of an additional report or study that is not*
38 *otherwise required by state law, including this section. This*
39 *subdivision does not prohibit a local government from requiring*
40 *an applicant to provide reasonable documentation to establish*

1 *eligibility for a requested density bonus, incentives or concessions,*
2 *as described in subdivision (d), waivers or reductions of*
3 *development standards, as described in subdivision (e), and*
4 *parking ratios, as described in subdivision (p).*

5 *(3) In order to provide for the expeditious processing of a*
6 *density bonus application, the local government shall do all of the*
7 *following:*

8 *(A) Adopt procedures and timelines for processing a density*
9 *bonus application.*

10 *(B) Provide a list of all documents and information required to*
11 *be submitted with the density bonus application in order for the*
12 *density bonus application to be deemed complete. This list shall*
13 *be consistent with this chapter.*

14 *(C) Notify the applicant for a density bonus whether the*
15 *application is complete in a manner consistent with Section 65943.*

16 *(b) (1) A city, county, or city and county shall grant one density*
17 *bonus, the amount of which shall be as specified in subdivision*
18 *(f), ~~and~~ and, if requested by the applicant and consistent with the*
19 *applicable requirements of this section, incentives or concessions,*
20 *as described in subdivision (d), waivers or reductions of*
21 *development standards, as described in subdivision (e), and*
22 *parking ratios, as described in subdivision (p), when an applicant*
23 *for a housing development seeks and agrees to construct a housing*
24 *development, excluding any units permitted by the density bonus*
25 *awarded pursuant to this section, that will contain at least any one*
26 *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 *(E) Ten percent of the total units of a housing development for*
4 *transitional foster youth, as defined in Section 66025.9 of the*
5 *Education Code, disabled veterans, as defined in Section 18541,*
6 *or homeless persons, as defined in the federal McKinney-Vento*
7 *Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units*
8 *described in this subparagraph shall be subject to a recorded*
9 *affordability restriction of 55 years and shall be provided at the*
10 *same affordability level as very low income units.*

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

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

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

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

39 (A) Upon resale, the seller of the unit shall retain the value of
40 any improvements, the downpayment, and the seller’s proportionate

1 share of appreciation. The local government shall recapture any
2 initial subsidy, as defined in subparagraph (B), and its proportionate
3 share of appreciation, as defined in subparagraph (C), which
4 amount shall be used within five years for any of the purposes
5 described in subdivision (e) of Section 33334.2 of the Health and
6 Safety Code that promote home ownership.

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

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

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

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

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

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

38 (i) If any dwelling units described in subparagraph (A) are
39 occupied on the date of application, the proposed housing
40 development shall provide at least the same number of units of

1 equivalent size ~~or type, or both~~, to be made available at affordable
 2 rent or affordable housing cost to, and occupied by, persons and
 3 families in the same or lower income category as those households
 4 in occupancy. *If the income category of the household in occupancy*
 5 *is not known, it shall be rebuttably presumed that lower income*
 6 *renter households occupied these units in the same proportion of*
 7 *lower income renter households to all renter households within*
 8 *the jurisdiction, as determined by the most recently available data*
 9 *from the United States Department of Housing and Urban*
 10 *Development's Comprehensive Housing Affordability Strategy*
 11 *database. For unoccupied dwelling units described in subparagraph*
 12 *(A) in a development with occupied units, the proposed housing*
 13 *development shall provide units of equivalent size ~~or type, or both~~,*
 14 *to be made available at affordable rent or affordable housing cost*
 15 *to, and occupied by, persons and families in the same or lower*
 16 *income category ~~in the same proportion of affordability as the~~*
 17 *~~occupied units.~~ as the last household in occupancy. If the income*
 18 *category of the last household in occupancy is not known, it shall*
 19 *be rebuttably presumed that lower income renter households*
 20 *occupied these units in the same proportion of lower income renter*
 21 *households to all renter households within the jurisdiction, as*
 22 *determined by the most recently available data from the United*
 23 *States Department of Housing and Urban Development's*
 24 *Comprehensive Housing Affordability Strategy database. All*
 25 *replacement calculations resulting in fractional units shall be*
 26 *rounded up to the next whole number. If the replacement units will*
 27 *be rental dwelling units, these units shall be subject to a recorded*
 28 *affordability restriction for at least 55 years. If the proposed*
 29 *development is for-sale units, the units replaced shall be subject*
 30 *to paragraph (2).*

31 (ii) If all dwelling units described in subparagraph (A) have
 32 been vacated or demolished within the five-year period preceding
 33 the application, the proposed housing development shall provide
 34 at least the same number of units of equivalent size ~~or type, or~~
 35 ~~both~~, as existed at the highpoint of those units in the five-year
 36 period preceding the application to be made available at affordable
 37 rent or affordable housing cost to, and occupied by, persons and
 38 families in the same or lower income category as those persons
 39 and families in occupancy at that time, if known. If the incomes
 40 of the persons and families in occupancy at the highpoint is not

1 known, then one-half of the required units shall be made available
2 at affordable rent or affordable housing cost to, and occupied by,
3 *it shall be rebuttably presumed that low-income and very low*
4 *income renter households occupied these units in the same*
5 *proportion of low-income and very low income persons and*
6 *families and one-half of the required units shall be made available*
7 *for rent at affordable housing costs to, and occupied by,*
8 *low-income persons and families. renter households to all renter*
9 *households within the jurisdiction, as determined by the most*
10 *recently available data from the United States Department of*
11 *Housing and Urban Development's Comprehensive Housing*
12 *Affordability Strategy database. All replacement calculations*
13 *resulting in fractional units shall be rounded up to the next whole*
14 *number. If the replacement units will be rental dwelling units,*
15 *these units shall be subject to a recorded affordability restriction*
16 *for at least 55 years. If the proposed development is for-sale units,*
17 *the units replaced shall be subject to paragraph (2).*

18 (C) *Notwithstanding subparagraph (B), for any dwelling unit*
19 *described in subparagraph (A) that is or was, within the five-year*
20 *period preceding the application, subject to a form of rent or price*
21 *control through a local government's valid exercise of its police*
22 *power and that is or was occupied by persons or families above*
23 *lower income, the city, county, or city and county may do either*
24 *of the following:*

25 (i) *Require that the replacement units be made available at*
26 *affordable rent or affordable housing cost to, and occupied by,*
27 *low-income persons or families. If the replacement units will be*
28 *rental dwelling units, these units shall be subject to a recorded*
29 *affordability restriction for at least 55 years. If the proposed*
30 *development is for-sale units, the units replaced shall be subject*
31 *to paragraph (2).*

32 (ii) *Require that the units be replaced in compliance with the*
33 *jurisdiction's rent or price control ordinance, provided that each*
34 *unit described in subparagraph (A) is replaced. Unless otherwise*
35 *required by the jurisdiction's rent or price control ordinance, these*
36 *units shall not be subject to a recorded affordability restriction.*

37 (D) *For purposes of this paragraph, "equivalent size" means*
38 *that the replacement units contain at least the same total number*
39 *of bedrooms as the units being replaced.*

40 ~~(C) Paragraph (3) of subdivision (e)~~

1 (E) Subparagraph (A) does not apply to an applicant seeking a
2 density bonus for a proposed housing development if his or her
3 application was submitted to, or processed by, a city, county, or
4 city and county before January 1, 2015.

5 (d) (1) An applicant for a density bonus pursuant to subdivision
6 (b) may submit to a city, county, or city and county a proposal for
7 the specific incentives or concessions that the applicant requests
8 pursuant to this section, and may request a meeting with the city,
9 county, or city and county. The city, county, or city and county
10 shall grant the concession or incentive requested by the applicant
11 unless the city, county, or city and county makes a written finding,
12 based upon substantial evidence, of any of the following:

13 (A) The concession or incentive ~~is does not required in order~~
14 *result in identifiable and actual cost reductions, consistent with*
15 *subdivision (k), to provide for affordable housing costs, as defined*
16 *in Section 50052.5 of the Health and Safety Code, or for rents for*
17 *the targeted units to be set as specified in subdivision (c).*

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

26 (C) The concession or incentive would be contrary to state or
27 federal law.

28 (2) The applicant shall receive the following number of
29 incentives or concessions:

30 (A) One incentive or concession for projects that include at least
31 10 percent of the total units for lower income households, at least
32 5 percent for very low income households, or at least 10 percent
33 for persons and families of moderate income in a common interest
34 development.

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

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

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

24 (4) *The city, county, or city and county shall bear the burden*
25 *of proof for the denial of a requested concession or incentive.*

26 (e) (1) In no case may a city, county, or city and county apply
27 any development standard that will have the effect of physically
28 precluding the construction of a development meeting the criteria
29 of subdivision (b) at the densities or with the concessions or
30 incentives permitted by this section. An applicant may submit to
31 a city, county, or city and county a proposal for the waiver or
32 reduction of development standards that will have the effect of
33 physically precluding the construction of a development meeting
34 the criteria of subdivision (b) at the densities or with the
35 concessions or incentives permitted under this section, and may
36 request a meeting with the city, county, or city and county. If a
37 court finds that the refusal to grant a waiver or reduction of
38 development standards is in violation of this section, the court
39 shall award the plaintiff reasonable attorney's fees and costs of
40 suit. Nothing in this subdivision shall be interpreted to require a

1 local government to waive or reduce development standards if the
 2 waiver or reduction would have a specific, adverse impact, as
 3 defined in paragraph (2) of subdivision (d) of Section 65589.5,
 4 upon health, safety, or the physical environment, and for which
 5 there is no feasible method to satisfactorily mitigate or avoid the
 6 specific adverse impact. Nothing in this subdivision shall be
 7 interpreted to require a local government to waive or reduce
 8 development standards that would have an adverse impact on any
 9 real property that is listed in the California Register of Historical
 10 Resources, or to grant any waiver or reduction that would be
 11 contrary to state or federal law.

12 (2) A proposal for the waiver or reduction of development
 13 standards pursuant to this subdivision shall neither reduce nor
 14 increase the number of incentives or concessions to which the
 15 applicant is entitled pursuant to subdivision (d).

16 (f) For the purposes of this chapter, “density bonus” means a
 17 density increase over the otherwise maximum allowable *gross*
 18 residential density as of the date of application by the applicant to
 19 the city, county, or city and ~~county~~. ~~The applicant may elect to~~
 20 ~~accept county, or, if elected by the applicant,~~ a lesser percentage
 21 of density ~~bonus~~. ~~increase, including, but not limited to, no increase~~
 22 ~~in density.~~ The amount of density ~~bonus~~ *increase* to which the
 23 applicant is entitled shall vary according to the amount by which
 24 the percentage of affordable housing units exceeds the percentage
 25 established in subdivision (b).

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

	Percentage Low-Income Units	Percentage Density
		Bonus
32	10	20
33	11	21.5
34	12	23
35	13	24.5
36	14	26
37	15	27.5
38	17	30.5
39	18	32
40	19	33.5

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

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

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

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

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17

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

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

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

31	Percentage Very Low Income	Percentage Density Bonus
32		
33	10	15
34	11	16
35	12	17
36	13	18
37	14	19
38	15	20
39	16	21
40	17	22

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

15 (2) This increase shall be in addition to any increase in density
16 mandated by subdivision (b), up to a maximum combined mandated
17 density increase of 35 percent if an applicant seeks an increase
18 pursuant to both this subdivision and subdivision (b). All density
19 calculations resulting in fractional units shall be rounded up to the
20 next whole number. Nothing in this subdivision shall be construed
21 to enlarge or diminish the authority of a city, county, or city and
22 county to require a developer to donate land as a condition of
23 development. An applicant shall be eligible for the increased
24 density bonus described in this subdivision if all of the following
25 conditions are met:

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

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

34 (C) The transferred land is at least one acre in size or of
35 sufficient size to permit development of at least 40 units, has the
36 appropriate general plan designation, is appropriately zoned with
37 appropriate development standards for development at the density
38 described in paragraph (3) of subdivision (c) of Section 65583.2,
39 and is or will be served by adequate public facilities and
40 infrastructure.

1 (D) The transferred land shall have all of the permits and
2 approvals, other than building permits, necessary for the
3 development of the very low income housing units on the
4 transferred land, not later than the date of approval of the final
5 subdivision map, parcel map, or residential development
6 application, except that the local government may subject the
7 proposed development to subsequent design review to the extent
8 authorized by subdivision (i) of Section 65583.2 if the design is
9 not reviewed by the local government prior to the time of transfer.

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

14 (F) The land is transferred to the local agency or to a housing
15 developer approved by the local agency. The local agency may
16 require the applicant to identify and transfer the land to the
17 developer.

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

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

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

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

33 (B) An additional concession or incentive that contributes
34 significantly to the economic feasibility of the construction of the
35 child care facility.

36 (2) The city, county, or city and county shall require, as a
37 condition of approving the housing development, that the following
38 occur:

39 (A) The child care facility shall remain in operation for a period
40 of time that is as long as or longer than the period of time during

1 which the density bonus units are required to remain affordable
2 pursuant to subdivision (c).

3 (B) Of the children who attend the child care facility, the
4 children of very low income households, lower income households,
5 or families of moderate income shall equal a percentage that is
6 equal to or greater than the percentage of dwelling units that are
7 required for very low income households, lower income
8 households, or families of moderate income pursuant to subdivision
9 (b).

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

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

19 (i) “Housing development,” as used in this section, means a
20 development project for five or more residential ~~units~~: *units*,
21 *including mixed-use developments*. For the purposes of this section,
22 “housing development” also includes a subdivision or common
23 interest development, as defined in Section 4100 of the Civil Code,
24 approved by a city, county, or city and county and consists of
25 residential units or unimproved residential lots and either a project
26 to substantially rehabilitate and convert an existing commercial
27 building to residential use or the substantial rehabilitation of an
28 existing multifamily dwelling, as defined in subdivision (d) of
29 Section 65863.4, where the result of the rehabilitation would be a
30 net increase in available residential units. For the purpose of
31 calculating a density bonus, the residential units shall be on
32 contiguous sites that are the subject of one development
33 application, but do not have to be based upon individual
34 subdivision maps or parcels. The density bonus shall be permitted
35 in geographic areas of the housing development other than the
36 areas where the units for the lower income households are located.

37 (j) (1) The granting of a concession or incentive shall not
38 *require or* be interpreted, in and of itself, to require a general plan
39 amendment, local coastal plan amendment, zoning change, *study*,
40 or other discretionary approval. *For purposes of this subdivision,*

1 “study” does not include reasonable documentation to establish
2 eligibility for the concession or incentive or to demonstrate that
3 the incentive or concession meets the definition set forth in
4 subdivision (k). This provision is declaratory of existing law.

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

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

11 (1) A reduction in site development standards or a modification
12 of zoning code requirements or architectural design requirements
13 that exceed the minimum building standards approved by the
14 California Building Standards Commission as provided in Part 2.5
15 (commencing with Section 18901) of Division 13 of the Health
16 and Safety Code, including, but not limited to, a reduction in
17 setback and square footage requirements and in the ratio of
18 vehicular parking spaces that would otherwise be required that
19 results in ~~identifiable, financially sufficient, identifiable~~ and actual
20 cost ~~reductions~~; *reductions, to provide for affordable housing costs,*
21 *as defined in Section 50052.5 of the Health and Safety Code, or*
22 *for rents for the targeted units to be set as specified in subdivision*
23 *(c).*

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

30 (3) Other regulatory incentives or concessions proposed by the
31 developer or the city, county, or city and county that result in
32 ~~identifiable, financially sufficient, identifiable~~ and actual cost
33 ~~reductions~~; *reductions to provide for affordable housing costs, as*
34 *defined in Section 50052.5 of the Health and Safety Code, or for*
35 *rents for the targeted units to be set as specified in subdivision (c).*

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

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

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

12 (o) For purposes of this section, the following definitions shall
13 apply:

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

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

29 (p) (1) Except as provided in paragraphs (2) and (3), upon the
30 request of the developer, a city, county, or city and county shall
31 not require a vehicular parking ratio, inclusive of handicapped and
32 guest parking, of a development meeting the criteria of subdivisions
33 (b) and (c), that exceeds the following ratios:

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

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

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

37 (2) Notwithstanding paragraph (1), if a development includes
38 the maximum percentage of ~~low-~~ *low-income* or very low income
39 units provided for in paragraphs (1) and (2) of subdivision (f) and
40 is located within one-half mile of a major transit stop, as defined

1 in subdivision (b) of Section 21155 of the Public Resources Code,
2 and there is unobstructed access to the major transit stop from the
3 development, then, upon the request of the developer, a city,
4 county, or city and county shall not impose a vehicular parking
5 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
6 spaces per bedroom. For purposes of this subdivision, a
7 development shall have unobstructed access to a major transit stop
8 if a resident is able to access the major transit stop without
9 encountering natural or constructed impediments.

10 (3) Notwithstanding paragraph (1), if a development consists
11 solely of rental units, exclusive of a manager's unit or units, with
12 an affordable housing cost to lower income families, as provided
13 in Section 50052.5 of the Health and Safety Code, then, upon the
14 request of the developer, a city, county, or city and county shall
15 not impose a vehicular parking ratio, inclusive of handicapped and
16 guest parking, that exceeds the following ratios:

17 (A) If the development is located within one-half mile of a major
18 transit stop, as defined in subdivision (b) of Section 21155 of the
19 Public Resources Code, and there is unobstructed access to the
20 major transit stop from the development, the ratio shall not exceed
21 0.5 spaces per unit.

22 (B) If the development is a for-rent housing development for
23 individuals who are 62 years of age or older that complies with
24 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
25 0.5 spaces per unit. The development shall have either paratransit
26 service or unobstructed access, within one-half mile, to fixed bus
27 route service that operates at least eight times per day.

28 (C) If the development is a special needs housing development,
29 as defined in Section 51312 of the Health and Safety Code, the
30 ratio shall not exceed 0.3 spaces per unit. The development shall
31 have either paratransit service or unobstructed access, within
32 one-half mile, to fixed bus route service that operates at least eight
33 times per day.

34 (4) If the total number of parking spaces required for a
35 development is other than a whole number, the number shall be
36 rounded up to the next whole number. For purposes of this
37 subdivision, a development may provide ~~on-site~~ *onsite* parking
38 through tandem parking or uncovered parking, but not through
39 ~~on-street~~ *onstreet* parking.

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

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

9 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
10 city and county, or an independent consultant has conducted an
11 areawide or jurisdictionwide parking study in the last seven years,
12 then the city, county, or city and county may impose a higher
13 vehicular parking ratio not to exceed the ratio described in
14 paragraph (1), based upon substantial evidence found in the parking
15 study, that includes, but is not limited to, an analysis of parking
16 availability, differing levels of transit access, walkability access
17 to transit services, the potential for shared parking, the effect of
18 parking requirements on the cost of market-rate and subsidized
19 developments, and the lower rates of car ownership for ~~low-~~
20 *low-income* and very low income individuals, including seniors
21 and special needs individuals. The city, county, or city and county
22 shall pay the costs of any new study. The city, county, or city and
23 county shall make findings, based on a parking study completed
24 in conformity with this paragraph, supporting the need for the
25 higher parking ratio.

26 (8) *A request pursuant to this subdivision shall neither reduce*
27 *nor increase the number of incentives or concessions to which the*
28 *applicant is entitled pursuant to subdivision (d).*

29 (q) *Each component of any density calculation, including base*
30 *density and bonus density, resulting in fractional units shall be*
31 *separately rounded up to the next whole number. The Legislature*
32 *finds and declares that this provision is declaratory of existing*
33 *law.*

34 (r) *This chapter shall be interpreted liberally in favor of*
35 *producing the maximum number of total housing units.*

36 SEC. 2. (a) *Section 1.3 of this bill incorporates amendments*
37 *to Section 65915 of the Government Code proposed by both this*
38 *bill and Assembly Bill 2442. It shall only become operative if (1)*
39 *both bills are enacted and become effective on or before January*
40 *1, 2017, (2) each bill amends Section 65915 of the Government*

1 Code, and (3) Assembly Bill 2556 is not enacted or as enacted
2 does not amend that section, and (4) this bill is enacted after
3 Assembly Bill 2442, in which case Sections 1, 1.5, and 1.7 of this
4 bill shall not become operative.

5 (b) Section 1.5 of this bill incorporates amendments to Section
6 65915 of the Government Code proposed by both this bill and
7 Assembly Bill 2556. It shall only become operative if (1) both bills
8 are enacted and become effective on or before January 1, 2017,
9 (2) each bill amends Section 65915 of the Government Code, (3)
10 Assembly Bill 2442 is not enacted or as enacted does not amend
11 that section, and (4) this bill is enacted after Assembly Bill 2556
12 in which case Sections 1, 1.3, and 1.7 of this bill shall not become
13 operative.

14 (c) Section 1.7 of this bill incorporates amendments to Section
15 65915 of the Government Code proposed by this bill, Assembly
16 Bill 2442, and Assembly Bill 2556. It shall only become operative
17 if (1) all three bills are enacted and become effective on or before
18 January 1, 2017, (2) all three bills amend Section 65915 of the
19 Government Code, and (3) this bill is enacted after Assembly Bill
20 2442 and Assembly Bill 2556, in which case Sections 1, 1.3, and
21 1.5 of this bill shall not become operative.

22 ~~SEC. 2.~~

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.