

AMENDED IN ASSEMBLY MAY 2, 2012
AMENDED IN ASSEMBLY APRIL 30, 2012
AMENDED IN ASSEMBLY APRIL 16, 2012
AMENDED IN ASSEMBLY MARCH 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Campos

February 22, 2012

An act to amend ~~Sections~~ *Section* 65040.2 and 65302 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Campos. Land use: general plan: access to healthy food.

~~(1) The Planning and Zoning Law requires that a city or county general plan consist of various elements, including, among other things, a land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land, as specified.~~

~~This bill would additionally require the land use element to identify food deserts, as defined, within the city or county and consider zoning changes to mitigate those areas currently designated as food deserts.~~

~~(2) Existing~~

~~Existing law requires the Office of Planning and Research to implement various long-range planning and research policies and goals~~

that are intended to shape statewide development patterns and significantly influence the quality of the state's environment and, in connection with those responsibilities, to adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans.

This bill would authorize the office to prepare and amend the guidelines to contain advice, developed in consultation with the Department of Food and Agriculture, for improving the health of Californians by increasing access to healthy affordable food.

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

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

1 SECTION 1. The Legislature finds and declares that in certain
2 parts of California there exists a shortage of fresh, healthy, and
3 affordable food, especially for persons and families of low and
4 moderate income, and that there is an immediate need to encourage
5 the access to healthy food for persons residing in California, not
6 only through the provision of grocery stores, farmers markets,
7 urban agriculture, mobile vendors, or other methods, but also
8 through changes in law designed to do all of the following:

9 (a) Expedite the local and state residential development process
10 locating new or rehabilitated grocery stores in food deserts.

11 (b) Ensure that local governments zone sufficient land to include
12 grocery stores and urban agriculture.

13 (c) Ensure that local governments make a diligent effort through
14 the administration of land use and development controls and the
15 provision of regulatory concessions and incentives to significantly
16 reduce barriers to grocery store development and thereby facilitate
17 the development of affordable and accessible food.

18 SEC. 2. Section 65040.2 of the Government Code is amended
19 to read:

20 65040.2. (a) In connection with its responsibilities under
21 subdivision (l) of Section 65040, the office shall develop and adopt
22 guidelines for the preparation of and the content of the mandatory
23 elements required in city and county general plans by Article 5
24 (commencing with Section 65300) of Chapter 3. For purposes of
25 this section, the guidelines prepared pursuant to Section 50459 of
26 the Health and Safety Code shall be the guidelines for the housing

1 element required by Section 65302. In the event that additional
2 elements are hereafter required in city and county general plans
3 by Article 5 (commencing with Section 65300) of Chapter 3, the
4 office shall adopt guidelines for those elements within six months
5 of the effective date of the legislation requiring those additional
6 elements.

7 (b) The office may request from each state department and
8 agency, as it deems appropriate, and the department or agency
9 shall provide, technical assistance in readopting, amending, or
10 repealing the guidelines.

11 (c) The guidelines shall be advisory to each city and county in
12 order to provide assistance in preparing and maintaining their
13 respective general plans.

14 (d) The guidelines shall contain the guidelines for addressing
15 environmental justice matters developed pursuant to Section
16 65040.12.

17 (e) The guidelines shall contain advice including
18 recommendations for best practices to allow for collaborative land
19 use planning of adjacent civilian and military lands and facilities.
20 The guidelines shall encourage enhanced land use compatibility
21 between civilian lands and any adjacent or nearby military facilities
22 through the examination of potential impacts upon one another.

23 (f) The guidelines shall contain advice for addressing the effects
24 of civilian development on military readiness activities carried out
25 on all of the following:

- 26 (1) Military installations.
- 27 (2) Military operating areas.
- 28 (3) Military training areas.
- 29 (4) Military training routes.
- 30 (5) Military airspace.
- 31 (6) Other territory adjacent to those installations and areas.

32 (g) By March 1, 2005, the guidelines shall contain advice,
33 developed in consultation with the Native American Heritage
34 Commission, for consulting with California Native American tribes
35 for all of the following:

- 36 (1) The preservation of, or the mitigation of impacts to, places,
37 features, and objects described in Sections 5097.9 and 5097.993
38 of the Public Resources Code.

(2) Procedures for identifying through the Native American Heritage Commission the appropriate California Native American tribes.

(3) Procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.

(4) Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects.

(h) Commencing January 1, 2009, but no later than January 1, 2014, upon the next revision of the guidelines pursuant to subdivision (i), the office shall prepare or amend guidelines for a legislative body to accommodate the safe and convenient travel of users of streets, roads, and highways in a manner that is suitable to the rural, suburban, or urban context of the general plan, pursuant to subdivision (b) of Section 65302.

(1) In developing guidelines, the office shall consider how appropriate accommodation varies depending on its transportation and land use context, including urban, suburban, or rural environments.

(2) The office may consult with leading transportation experts including, but not limited to, bicycle transportation planners, pedestrian planners, public transportation planners, local air quality management districts, and disability and senior mobility planners.

(i) (1) Upon the next revision of the guidelines pursuant to subdivision (j), the office may prepare and amend the guidelines to contain advice, developed in consultation with the Department of Food and Agriculture, for improving the health of Californians by increasing access to healthy affordable food. This advice may include, but is not limited to, information on how a city or county may choose, if relevant, to address the following issues:

(A) Access to full and discount grocery stores.

(B) Access to urban farming.

(C) Access to community or school gardens.

(D) Access to farmers' markets.

(E) Access to affordable food, including food retail spaces that accept CalFresh benefits received under the federal Supplemental Nutrition Assistance Program of the federal Food and Nutrition Act of 2008 pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code,

or benefits received under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code.

(F) Access to transportation near grocery stores, including, but not limited to, bus stops or other mass transportation stops near the grocery store, free or low-cost shuttles to and from the grocery store, taxi vouchers, and carpool programs.

(2) The information included in the next revision of the guidelines pursuant to this subdivision shall be made applicable to a city or county only at the discretion of its legislative body.

(j) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

~~SEC. 3. Section 65302 of the Government Code is amended to read:~~

~~65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:~~

~~(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do all of the following:~~

~~(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act~~

1 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
2 of Division 1 of Title 5):

3 ~~(2) Consider the impact of new growth on military readiness~~
4 ~~activities carried out on military bases, installations, and operating~~
5 ~~and training areas, when proposing zoning ordinances or~~
6 ~~designating land uses covered by the general plan for land, or other~~
7 ~~territory adjacent to military facilities, or underlying designated~~
8 ~~military aviation routes and airspace.~~

9 ~~(A) In determining the impact of new growth on military~~
10 ~~readiness activities, information provided by military facilities~~
11 ~~shall be considered. Cities and counties shall address military~~
12 ~~impacts based on information from the military and other sources.~~

13 ~~(B) The following definitions govern this paragraph:~~

14 ~~(i) “Military readiness activities” mean all of the following:~~

15 ~~(I) Training, support, and operations that prepare the men and~~
16 ~~women of the military for combat.~~

17 ~~(II) Operation, maintenance, and security of any military~~
18 ~~installation.~~

19 ~~(III) Testing of military equipment, vehicles, weapons, and~~
20 ~~sensors for proper operation or suitability for combat use.~~

21 ~~(ii) “Military installation” means a base, camp, post, station,~~
22 ~~yard, center, homeport facility for any ship, or other activity under~~
23 ~~the jurisdiction of the United States Department of Defense as~~
24 ~~defined in paragraph (1) of subsection (e) of Section 2687 of Title~~
25 ~~10 of the United States Code.~~

26 ~~(3) (A) At the next update of the land use element following~~
27 ~~the effective date of the act that added this paragraph, identify food~~
28 ~~deserts within the city or county and consider zoning changes to~~
29 ~~mitigate those areas currently designated as food deserts.~~

30 ~~(B) For purposes of this paragraph, the following terms have~~
31 ~~the following meanings:~~

32 ~~(i) “Food desert” means a low-income census tract where at~~
33 ~~least 500 people or at least 33 percent, whichever is less, of the~~
34 ~~population within the census tract reside more than two miles from~~
35 ~~a supermarket or large grocery store.~~

36 ~~(ii) “Low-income census tract” means any census tract where~~
37 ~~either of the following apply:~~

38 ~~(I) The poverty rate for that census tract is at least 20 percent.~~

39 ~~(II) For census tracts not located within a metropolitan area, the~~
40 ~~median family income for the tract does not exceed 80 percent of~~

1 statewide median family income, or for tracts located within a
2 metropolitan area, the median family income for the tract does not
3 exceed 80 percent of the greater of statewide median family income
4 or the metropolitan area median family income.

5 (iii) “Supermarket” means a retailer that has annual sales of at
6 least two million dollars (\$2,000,000) and contains all the major
7 food departments found in a traditional supermarket, including,
8 but not limited to, fresh meat and poultry, produce, dairy, dry and
9 packaged foods, and frozen foods.

10 (b) (1) A circulation element consisting of the general location
11 and extent of existing and proposed major thoroughfares,
12 transportation routes, terminals, any military airports and ports,
13 and other local public utilities and facilities, all correlated with the
14 land use element of the plan.

15 (2) (A) Commencing January 1, 2011, upon any substantive
16 revision of the circulation element, the legislative body shall
17 modify the circulation element to plan for a balanced, multimodal
18 transportation network that meets the needs of all users of streets,
19 roads, and highways for safe and convenient travel in a manner
20 that is suitable to the rural, suburban, or urban context of the
21 general plan.

22 (B) For purposes of this paragraph, “users of streets, roads, and
23 highways” means bicyclists, children, persons with disabilities,
24 motorists, movers of commercial goods, pedestrians, users of public
25 transportation, and seniors.

26 (c) A housing element as provided in Article 10.6 (commencing
27 with Section 65580).

28 (d) (1) A conservation element for the conservation,
29 development, and utilization of natural resources including water
30 and its hydraulic force, forests, soils, rivers and other waters,
31 harbors, fisheries, wildlife, minerals, and other natural resources.
32 The conservation element shall consider the effect of development
33 within the jurisdiction, as described in the land use element, on
34 natural resources located on public lands, including military
35 installations. That portion of the conservation element including
36 waters shall be developed in coordination with any countywide
37 water agency and with all district and city agencies, including
38 flood management, water conservation, or groundwater agencies
39 that have developed, served, controlled, managed, or conserved
40 water of any type for any purpose in the county or city for which

1 the plan is prepared. Coordination shall include the discussion and
2 evaluation of any water supply and demand information described
3 in Section 65352.5, if that information has been submitted by the
4 water agency to the city or county.

5 (2) The conservation element may also cover all of the
6 following:

7 (A) The reclamation of land and waters.

8 (B) Prevention and control of the pollution of streams and other
9 waters.

10 (C) Regulation of the use of land in stream channels and other
11 areas required for the accomplishment of the conservation plan.

12 (D) Prevention, control, and correction of the erosion of soils,
13 beaches, and shores.

14 (E) Protection of watersheds.

15 (F) The location, quantity and quality of the rock, sand and
16 gravel resources.

17 (3) Upon the next revision of the housing element on or after
18 January 1, 2009, the conservation element shall identify rivers,
19 creeks, streams, flood corridors, riparian habitats, and land that
20 may accommodate floodwater for purposes of groundwater
21 recharge and stormwater management.

22 (e) An open-space element as provided in Article 10.5
23 (commencing with Section 65560).

24 (f) (1) A noise element that shall identify and appraise noise
25 problems in the community. The noise element shall recognize the
26 guidelines established by the Office of Noise Control and shall
27 analyze and quantify, to the extent practicable, as determined by
28 the legislative body, current and projected noise levels for all of
29 the following sources:

30 (A) Highways and freeways.

31 (B) Primary arterials and major local streets.

32 (C) Passenger and freight online railroad operations and ground
33 rapid transit systems.

34 (D) Commercial, general aviation, heliport, helistop, and military
35 airport operations, aircraft overflights, jet engine test stands, and
36 all other ground facilities and maintenance functions related to
37 airport operation.

38 (E) Local industrial plants, including, but not limited to, railroad
39 classification yards.

~~(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.~~

~~(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.~~

~~(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.~~

~~(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.~~

~~(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code; and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.~~

~~(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:~~

~~(A) Identify information regarding flood hazards, including, but not limited to, the following:~~

~~(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard~~

1 ~~zones or uses permitted within flood hazard zones will be free~~
2 ~~from flooding or flood damage.~~
3 ~~(ii) National Flood Insurance Program maps published by~~
4 ~~FEMA.~~
5 ~~(iii) Information about flood hazards that is available from the~~
6 ~~United States Army Corps of Engineers.~~
7 ~~(iv) Designated floodway maps that are available from the~~
8 ~~Central Valley Flood Protection Board.~~
9 ~~(v) Dam failure inundation maps prepared pursuant to Section~~
10 ~~8589.5 that are available from the California Emergency~~
11 ~~Management Agency.~~
12 ~~(vi) Awareness Floodplain Mapping Program maps and 200-year~~
13 ~~flood plain maps that are or may be available from, or accepted~~
14 ~~by, the Department of Water Resources.~~
15 ~~(vii) Maps of levee protection zones.~~
16 ~~(viii) Areas subject to inundation in the event of the failure of~~
17 ~~project or nonproject levees or floodwalls.~~
18 ~~(ix) Historical data on flooding, including locally prepared maps~~
19 ~~of areas that are subject to flooding, areas that are vulnerable to~~
20 ~~flooding after wildfires, and sites that have been repeatedly~~
21 ~~damaged by flooding.~~
22 ~~(x) Existing and planned development in flood hazard zones,~~
23 ~~including structures, roads, utilities, and essential public facilities.~~
24 ~~(xi) Local, state, and federal agencies with responsibility for~~
25 ~~flood protection, including special districts and local offices of~~
26 ~~emergency services.~~
27 ~~(B) Establish a set of comprehensive goals, policies, and~~
28 ~~objectives based on the information identified pursuant to~~
29 ~~subparagraph (A), for the protection of the community from the~~
30 ~~unreasonable risks of flooding, including, but not limited to:~~
31 ~~(i) Avoiding or minimizing the risks of flooding to new~~
32 ~~development.~~
33 ~~(ii) Evaluating whether new development should be located in~~
34 ~~flood hazard zones, and identifying construction methods or other~~
35 ~~methods to minimize damage if new development is located in~~
36 ~~flood hazard zones.~~
37 ~~(iii) Maintaining the structural and operational integrity of~~
38 ~~essential public facilities during flooding.~~
39 ~~(iv) Locating, when feasible, new essential public facilities~~
40 ~~outside of flood hazard zones, including hospitals and health care~~

1 facilities, emergency shelters, fire stations, emergency command
2 centers, and emergency communications facilities or identifying
3 construction methods or other methods to minimize damage if
4 these facilities are located in flood hazard zones.

5 (v) Establishing cooperative working relationships among public
6 agencies with responsibility for flood protection.

7 (C) Establish a set of feasible implementation measures designed
8 to carry out the goals, policies, and objectives established pursuant
9 to subparagraph (B).

10 (3) After the initial revision of the safety element pursuant to
11 paragraph (2), upon each revision of the housing element, the
12 planning agency shall review and, if necessary, revise the safety
13 element to identify new information that was not available during
14 the previous revision of the safety element.

15 (4) Cities and counties that have flood plain management
16 ordinances that have been approved by FEMA that substantially
17 comply with this section, or have substantially equivalent
18 provisions to this subdivision in their general plans, may use that
19 information in the safety element to comply with this subdivision,
20 and shall summarize and incorporate by reference into the safety
21 element the other general plan provisions or the flood plain
22 ordinance, specifically showing how each requirement of this
23 subdivision has been met.

24 (5) Prior to the periodic review of its general plan and prior to
25 preparing or revising its safety element, each city and county shall
26 consult the California Geological Survey of the Department of
27 Conservation, the Central Valley Flood Protection Board, if the
28 city or county is located within the boundaries of the Sacramento
29 and San Joaquin Drainage District, as set forth in Section 8501 of
30 the Water Code, and the California Emergency Management
31 Agency for the purpose of including information known by and
32 available to the department, the agency, and the board required by
33 this subdivision.

34 (6) To the extent that a county's safety element is sufficiently
35 detailed and contains appropriate policies and programs for
36 adoption by a city, a city may adopt that portion of the county's
37 safety element that pertains to the city's planning area in
38 satisfaction of the requirement imposed by this subdivision.

O