

AMENDED IN SENATE MAY 13, 2025

AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 5, 2025

## **SENATE BILL**

**No. 79**

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**Introduced by Senator Wiener**

January 15, 2025

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An act to amend Section 54221 of, and to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of, the Government Code, and to add Section 21080.26.5 to the Public Resources Code, relating to land use.

### LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. Local government land: public transit use: housing development: transit-oriented development.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "surplus land" for these purposes to mean land owned in fee simple by any local agency for which the local agency's governing body takes formal action declaring that the land is surplus and is not necessary for the agency's use. Existing law defines "agency's use" for these purposes to include land that is being used for agency work or operations, as provided. Existing law exempts from this definition of "agency's use" certain commercial or industrial uses, except that in the case of a local agency that is a district, except a local agency whose primary purpose or mission is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, as specified.

This bill would additionally include land leased to support public transit operations in the definition of “agency’s use,” as described above. The bill would also revise the definition of “agency’s use” with respect to commercial or industrial uses to instead provide that a district or a public transit operator may use land for commercial or industrial uses or activities, as described above.

(2) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a *land use element* and a *housing element*. *Existing law requires that the land use element designate the proposed general distribution and general location and extent of the uses of the land, as specified. Existing law requires that the housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing, as specified.* Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce the act’s provisions, as provided, and

provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a housing development project, as defined, proposed within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use on any site zoned for residential, mixed, ~~commercial, or light industrial~~ or commercial development, *or a qualified light industrial site, as defined*, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed ~~requirements~~ *requirements, as specified*. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. The bill would specify that a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements, and would specify that the project is required to comply with certain affordability requirements, under that law.

This bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential ~~units~~ *units and to include housing for lower income households, as specified*. The bill would also authorize a transit agency to adopt objective standards for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, ~~provided that if the land is within 1/2 mile of a TOD stop and~~ the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

*This bill would authorize a local government to enact a local TOD alternative plan as an amendment to the housing element and land use element, and would exempt a local government that has enacted a local TOD alternative plan from the above-specified provisions. The bill would require the plan to maintain at least the same total increase in*

*feasible zoned capacity, in terms of both total units and residential floor area, as provided by these provisions across all TOD zones, as defined. The bill would require a local government, except as provided, to submit the draft plan to the department and would require the department to assess the plan and recommend changes to remove unnecessary constraints on housing.*

This bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. *The bill would authorize the regional council of governments or metropolitan planning organization to create a map of designated TOD stops and zones, which would have a rebuttable presumption of validity.* The bill would ~~permit~~ *authorize* a local government to ~~adopt~~ *enact* an ordinance to ~~implement~~ *make its zoning code consistent with* these provisions, as provided. The bill would require the local government to submit a copy of this ordinance to the department within 60 days of ~~adoption~~ *enactment* and would require the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and the local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

This bill would define various terms for its purposes and make related findings and declarations.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects if specified

requirements are met, as provided. CEQA includes within these exempt transportation-related projects a public project for the institution or increase of bus rapid transit, bus, or light rail service, or other passenger rail service, that will be exclusively used by low-emission or zero-emission vehicles, on existing public rights-of-way or existing highway rights-of-way.

This bill would exempt from CEQA a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and meets specified requirements. The bill would provide that, for a project that requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, that project would be considered a wholly separate project from the project described in these provisions and shall not be exempt from CEQA.

(4) By increasing the duties of local officials, this bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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 54221 of the Government Code is  
2 amended to read:  
3 54221. As used in this article, the following definitions shall  
4 apply:  
5 (a) (1) “Local agency” means every city, whether organized  
6 under general law or by charter, county, city and county, district,  
7 including school, sewer, water, utility, and local and regional park  
8 districts of any kind or class, joint powers authority, successor  
9 agency to a former redevelopment agency, housing authority, or  
10 other political subdivision of this state and any instrumentality  
11 thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term “district” as used in this article includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) (1) “Surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use. Land shall be declared either “surplus land” or “exempt surplus land,” as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures. A local agency, on an annual basis, may declare multiple parcels as “surplus land” or “exempt surplus land.”

(2) “Surplus land” includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan approved by the Department of Finance pursuant to Section 34191.5 of the Health and Safety Code, either for sale or for future development, but does not include any specific disposal of land to an identified entity described in the plan.

(3) Nothing in this article prevents a local agency from obtaining fair market value for the disposition of surplus land consistent with Section 54226.

(4) Notwithstanding paragraph (1), a local agency is not required to make a declaration at a public meeting for land that is “exempt surplus land” pursuant to subparagraph (A), (B), (E), (K), (L), or (Q) of paragraph (1) of subdivision (f) if the local agency identifies the land in a notice that is published and available for public comment, including notice to the entities identified in subdivision (a) of Section 54222, at least 30 days before the exemption takes effect.

(c) (1) Except as provided in paragraph (2), “agency’s use” shall include, but not be limited to, land that is being used, or is

1 planned to be used pursuant to a written plan adopted by the local  
2 agency's governing board, for agency work or operations,  
3 including, but not limited to, utility sites, property owned by a port  
4 that is used to support logistics uses, watershed property, land  
5 being used for conservation purposes, land for demonstration,  
6 exhibition, or educational purposes related to greenhouse gas  
7 emissions, sites for broadband equipment or wireless facilities,  
8 land leased to support public transit operations, and buffer sites  
9 near sensitive governmental uses, including, but not limited to,  
10 waste disposal sites, and wastewater treatment plants. "Agency's  
11 use" by a local agency that is a district shall also include land  
12 disposed for uses described in subparagraph (B) of paragraph (2).

13 (2) (A) "Agency's use" shall not include commercial or  
14 industrial uses or activities, including nongovernmental retail,  
15 entertainment, or office development. Property disposed of for the  
16 sole purpose of investment or generation of revenue shall not be  
17 considered necessary for the agency's use.

18 (B) In the case of a local agency that is a district or a public  
19 transit operator, "agency's use" may include commercial or  
20 industrial uses or activities, including nongovernmental retail,  
21 entertainment, or office development or be for the sole purpose of  
22 investment or generation of revenue if the agency's governing  
23 body takes action in a public meeting declaring that the use of the  
24 site will do one of the following:

25 (i) Directly further the express purpose of agency work or  
26 operations.

27 (ii) Be expressly authorized by a statute governing the local  
28 agency, provided the district complies with Section 54233.5 if  
29 applicable.

30 (d) (1) "Dispose" means either of the following:

31 (A) The sale of the surplus land.

32 (B) The entering of a lease for surplus land, which is for a term  
33 longer than 15 years, inclusive of any extension or renewal options  
34 included in the terms of the initial lease, entered into on or after  
35 January 1, 2024.

36 (2) "Dispose" shall not mean either of the following:

37 (A) The entering of a lease for surplus land, which is for a term  
38 of 15 years or less, inclusive of any extension or renewal options  
39 included in the terms of the initial lease.

1 (B) The entering of a lease for surplus land on which no  
2 development or demolition will occur, regardless of the term of  
3 the lease.

4 (e) “Open-space purposes” means the use of land for public  
5 recreation, enjoyment of scenic beauty, or conservation or use of  
6 natural resources.

7 (f) (1) Except as provided in paragraph (2), “exempt surplus  
8 land” means any of the following:

9 (A) Surplus land that is transferred pursuant to Section 25539.4  
10 or 37364.

11 (B) Surplus land that is less than one-half acre in area and is  
12 not contiguous to land owned by a state or local agency that is  
13 used for open-space or low- and moderate-income housing  
14 purposes.

15 (C) Surplus land that a local agency is exchanging for another  
16 property necessary for the agency’s use. “Property” may include  
17 easements necessary for the agency’s use.

18 (D) Surplus land that a local agency is transferring to another  
19 local, state, or federal agency, or to a third-party intermediary for  
20 future dedication for the receiving agency’s use, or to a federally  
21 recognized California Indian tribe. If the surplus land is transferred  
22 to a third-party intermediary, the receiving agency’s use must be  
23 contained in a legally binding agreement at the time of transfer to  
24 the third-party intermediary.

25 (E) Surplus land that is a former street, right-of-way, or  
26 easement, and is conveyed to an owner of an adjacent property.

27 (F) (i) Surplus land that is to be developed for a housing  
28 development, which may have ancillary commercial ground floor  
29 uses, that restricts 100 percent of the residential units to persons  
30 and families of low or moderate income, with at least 75 percent  
31 of the residential units restricted to lower income households, as  
32 defined in Section 50079.5 of the Health and Safety Code, with  
33 an affordable sales price or an affordable rent, as defined in Section  
34 50052.5 or 50053 of the Health and Safety Code, for 55 years for  
35 rental housing, 45 years for ownership housing, and 50 years for  
36 rental or ownership housing located on tribal trust lands, unless a  
37 local ordinance or a federal, state, or local grant, tax credit, or other  
38 project financing requires a longer period of affordability, and in  
39 no event shall the maximum affordable sales price or rent level be



1 higher than 20 percent below the median market rents or sales  
2 prices for the neighborhood in which the site is located.

3 (ii) The requirements of clause (i) shall be contained in a  
4 covenant or restriction recorded against the surplus land at the time  
5 of sale that shall run with the land and be enforceable against any  
6 owner who violates the covenant or restriction and each successor  
7 in interest who continues the violation.

8 (G) (i) Surplus land that is subject to a local agency's open,  
9 competitive solicitation or that is put to open, competitive bid by  
10 a local agency, provided that all entities identified in subdivision  
11 (a) of Section 54222 will be invited to participate in the process,  
12 for a housing or a mixed-use development that is more than one  
13 acre and less than 10 acres in area, consisting of either a single  
14 parcel, or two or more adjacent or non-adjacent parcels combined,  
15 that includes not less than 300 residential units, and that restricts  
16 at least 25 percent of the residential units to lower income  
17 households, as defined in Section 50079.5 of the Health and Safety  
18 Code, with an affordable sales price or an affordable rent, as  
19 defined in Sections 50052.5 and 50053 of the Health and Safety  
20 Code, for 55 years for rental housing, 45 years for ownership  
21 housing, and 50 years for rental or ownership housing located on  
22 tribal trust lands, unless a local ordinance or a federal, state, or  
23 local grant, tax credit, or other project financing requires a longer  
24 period of affordability.

25 (ii) The requirements of clause (i) shall be contained in a  
26 covenant or restriction recorded against the surplus land at the time  
27 of sale that shall run with the land and be enforceable against any  
28 owner who violates the covenant or restriction and each successor  
29 in interest who continues the violation.

30 (H) (i) Surplus land totaling 10 or more acres, consisting of  
31 either a single parcel, or two or more adjacent or non-adjacent  
32 parcels combined for disposition to one or more buyers pursuant  
33 to a plan or ordinance adopted by the legislative body of the local  
34 agency, or a state statute. That surplus land shall be subject to a  
35 local agency's open, competitive solicitation process or put out to  
36 open, competitive bid by a local agency, provided that all entities  
37 identified in subdivision (a) of Section 54222 will be invited to  
38 participate in the process for a housing or mixed-use development.

39 (ii) The aggregate development shall include the greater of the  
40 following:

1 (I) Not less than 300 residential units.

2 (II) A number of residential units equal to 10 times the number  
3 of acres of the surplus land or 10,000 residential units, whichever  
4 is less.

5 (iii) At least 25 percent of the residential units shall be restricted  
6 to lower income households, as defined in Section 50079.5 of the  
7 Health and Safety Code, with an affordable sales price or an  
8 affordable rent pursuant to Sections 50052.5 and 50053 of the  
9 Health and Safety Code, for a minimum of 55 years for rental  
10 housing, 45 years for ownership housing, and 50 years for rental  
11 or ownership housing located on tribal trust lands, unless a local  
12 ordinance or a federal, state, or local grant, tax credit, or other  
13 project financing requires a longer period of affordability.

14 (iv) If nonresidential development is included in the  
15 development pursuant to this subparagraph, at least 25 percent of  
16 the total planned units affordable to lower income households shall  
17 be made available for lease or sale and permitted for use and  
18 occupancy before or at the same time with every 25 percent of  
19 nonresidential development made available for lease or sale and  
20 permitted for use and occupancy.

21 (v) A violation of this subparagraph is subject to the penalties  
22 described in Section 54230.5. Those penalties are in addition to  
23 any remedy a court may order for violation of this subparagraph.  
24 A local agency shall only dispose of land pursuant to this  
25 subparagraph through a disposition and development agreement  
26 that includes an indemnification clause that provides that if an  
27 action occurs after disposition violates this subparagraph, the  
28 person or entity that acquired the property shall be liable for the  
29 penalties.

30 (vi) The requirements of clauses (i) to (v), inclusive, shall be  
31 contained in a covenant or restriction recorded against the surplus  
32 land at the time of sale that shall run with the land and be  
33 enforceable against any owner who violates the covenant or  
34 restriction and each successor in interest who continues the  
35 violation.

36 (I) A mixed-use development, which may include more than  
37 one publicly owned parcel, that meets all of the following  
38 conditions:

39 (i) The development restricts at least 25 percent of the residential  
40 units to lower income households, as defined in Section 50079.5

1 of the Health and Safety Code, with an affordable sales price or  
2 an affordable rent, as defined in Sections 50052.5 and 50053 of  
3 the Health and Safety Code, for 55 years for rental housing, 45  
4 years for ownership housing, and 50 years for rental or ownership  
5 housing located on tribal trust lands, unless a local ordinance or a  
6 federal, state, or local grant, tax credit, or other project financing  
7 requires a longer period of affordability.

8 (ii) At least 50 percent of the square footage of the new  
9 construction associated with the development is designated for  
10 residential use.

11 (iii) The development is not located in an urbanized area, as  
12 defined in Section 21094.5 of the Public Resources Code.

13 (J) (i) Surplus land that is subject to a valid legal restriction  
14 that is not imposed by the local agency and that makes housing  
15 prohibited, unless there is a feasible method to satisfactorily  
16 mitigate or avoid the prohibition on the site. A declaration of  
17 exemption pursuant to this subparagraph shall be supported by  
18 documentary evidence establishing the valid legal restriction. For  
19 the purposes of this section, “documentary evidence” includes,  
20 but is not limited to, a contract, agreement, deed restriction, statute,  
21 regulation, or other writing that documents the valid legal  
22 restriction.

23 (ii) Valid legal restrictions include, but are not limited to, all of  
24 the following:

25 (I) Existing constraints under ownership rights or contractual  
26 rights or obligations that prevent the use of the property for  
27 housing, if the rights or obligations were agreed to prior to  
28 September 30, 2019.

29 (II) Conservation or other easements or encumbrances that  
30 prevent housing development.

31 (III) Existing leases, or other contractual obligations or  
32 restrictions, if the terms were agreed to prior to September 30,  
33 2019.

34 (IV) Restrictions imposed by the source of funding that a local  
35 agency used to purchase a property, provided that both of the  
36 following requirements are met:

37 (ia) The restrictions limit the use of those funds to purposes  
38 other than housing.

39 (ib) The proposed disposal of surplus land meets a use consistent  
40 with that purpose.

(iii) Valid legal restrictions that would make housing prohibited do not include either of the following:

(I) An existing nonresidential land use designation on the surplus land.

(II) Covenants, restrictions, or other conditions on the property rendered void and unenforceable by any other law, including, but not limited to, Section 714.6 of the Civil Code.

(iv) Feasible methods to mitigate or avoid a valid legal restriction on the site do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.

(K) Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

(L) Land that is subject to either of the following, unless compliance with this article is expressly required:

(i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420, or 81422 of the Education Code.

(ii) Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code.

(M) Surplus land that is a former military base that was conveyed by the federal government to a local agency, and is subject to Article 8 (commencing with Section 33492.125) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:

(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.

(ii) The affordability requirements for residential units shall be governed by a settlement agreement entered into prior to September 1, 2020. Furthermore, at least 25 percent of the initial 1,400 residential units developed shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on

1 tribal trust lands, unless a local ordinance or a federal, state, or  
2 local grant, tax credit, or other project financing requires a longer  
3 period of affordability.

4 (iii) Before disposition of the surplus land, the agency adopts  
5 written findings that the land is exempt surplus land pursuant to  
6 this subparagraph.

7 (iv) Before disposition of the surplus land, the recipient has  
8 negotiated a project labor agreement consistent with the local  
9 agency's project stabilization agreement resolution, as adopted on  
10 February 2, 2021, and any succeeding ordinance, resolution, or  
11 policy, regardless of the length of the agreement between the local  
12 agency and the recipient.

13 (v) The agency includes in the annual report required by  
14 paragraph (2) of subdivision (a) of Section 65400 the status of  
15 development of residential units on the former military base,  
16 including the total number of residential units that have been  
17 permitted and what percentage of those residential units are  
18 restricted for persons and families of low or moderate income, or  
19 lower income households, as defined in Section 50079.5 of the  
20 Health and Safety Code.

21 A violation of this subparagraph is subject to the penalties  
22 described in Section 54230.5. Those penalties are in addition to  
23 any remedy a court may order for violation of this subparagraph  
24 or the settlement agreement.

25 (N) Real property that is used by a district for an agency's use  
26 expressly authorized in subdivision (c).

27 (O) Land that has been transferred before June 30, 2019, by the  
28 state to a local agency pursuant to Section 32667 of the Streets  
29 and Highways Code and has a minimum planned residential density  
30 of at least 100 dwelling units per acre, and includes 100 or more  
31 residential units that are restricted to persons and families of low  
32 or moderate income, with an affordable sales price or an affordable  
33 rent, as defined in Sections 50052.5 and 50053 of the Health and  
34 Safety Code, for 55 years for rental housing, 45 years for ownership  
35 housing, and 50 years for rental or ownership housing located on  
36 tribal trust lands, unless a local ordinance or a federal, state, or  
37 local grant, tax credit, or other project financing requires a longer  
38 period of affordability. For purposes of this subparagraph, not  
39 more than 20 percent of the affordable units may be restricted to  
40 persons and families of moderate income and at least 80 percent

1 of the affordable units must be restricted to lower income  
2 households as defined in Section 50079.5 of the Health and Safety  
3 Code.

4 (P) (i) Land that meets the following conditions:

5 (I) Land that is subject to a sectional planning area document  
6 that meets both of the following:

7 (ia) The sectional planning area was adopted prior to January  
8 1, 2019.

9 (ib) The sectional planning area document is consistent with  
10 county and city general plans applicable to the land.

11 (II) The land identified in the adopted sectional planning area  
12 document was dedicated prior to January 1, 2019.

13 (III) On January 1, 2019, the parcels on the land met at least  
14 one of the following conditions:

15 (ia) The land was subject to an irrevocable offer of dedication  
16 of fee interest requiring the land to be used for a specified purpose.

17 (ib) The land was acquired through a land exchange subject to  
18 a land offer agreement that grants the land's original owner the  
19 right to repurchase the land acquired by the local agency pursuant  
20 to the agreement if the land will not be developed in a manner  
21 consistent with the agreement.

22 (ic) The land was subject to a grant deed specifying that the  
23 property shall be used for educational uses and limiting other types  
24 of uses allowed on the property.

25 (IV) At least 25 percent of the units are dedicated to lower  
26 income households, as defined in Section 50079.5 of the Health  
27 and Safety Code, at an affordable rent, as defined by Section 50053  
28 of the Health and Safety Code, or an affordable housing cost, as  
29 defined by Section 50052.5 of the Health and Safety Code, and  
30 subject to a recorded deed restriction for a period of 55 years for  
31 rental units and 45 years for owner-occupied units, unless a local  
32 ordinance or a federal, state, or local grant, tax credit, or other  
33 project financing requires a longer period of affordability.

34 (V) The land is developed at an average density of at least 10  
35 units per acre, calculated with respect to the entire sectional  
36 planning area.

37 (VI) No more than 25 percent of the nonresidential square  
38 footage identified in the sectional planning area document receives  
39 its first certificate of occupancy before at least 25 percent of the

1 residential square footage identified in the sectional planning area  
2 document has received its first certificate of occupancy.

3 (VII) No more than 50 percent of the nonresidential square  
4 footage identified in the sectional planning area document receives  
5 its first certificate of occupancy before at least 50 percent of the  
6 residential square footage identified in the sectional planning area  
7 document has received its first certificate of occupancy.

8 (VIII) No more than 75 percent of the nonresidential square  
9 footage identified in the sectional planning area document shall  
10 receive its first certificate of occupancy before at least 75 percent  
11 of the residential square footage identified in the sectional planning  
12 area document has received its first certificate of occupancy.

13 (ii) The local agency includes in the annual report required by  
14 paragraph (2) of subdivision (a) of Section 65400 the status of  
15 development, including the total square footage of the residential  
16 and nonresidential development, the number of residential units  
17 that have been permitted, and what percentage of those residential  
18 units are restricted for persons and families of low or moderate  
19 income, or lower income households, as defined in Section 50079.5  
20 of the Health and Safety Code.

21 (iii) The Department of Housing and Community Development  
22 may request additional information from the agency regarding  
23 land disposed of pursuant to this subparagraph.

24 (iv) At least 30 days prior to disposing of land declared “exempt  
25 surplus land,” a local agency shall provide the Department of  
26 Housing and Community Development a written notification of  
27 its declaration and findings in a form prescribed by the Department  
28 of Housing and Community Development. Within 30 days of  
29 receipt of the written notification and findings, the department  
30 shall notify the local agency if the department has determined that  
31 the local agency is in violation of this article. A local agency that  
32 fails to submit the written notification and findings shall be liable  
33 for a civil penalty pursuant to this subparagraph. A local agency  
34 shall not be liable for the civil penalty if the Department of Housing  
35 and Community Development does not notify the agency that the  
36 agency is in violation of this article within 30 days of receiving  
37 the written notification and findings. Once the department  
38 determines that the declarations and findings comply with  
39 subclauses (I) to (IV), inclusive, of clause (i), the local agency

1 may proceed with disposal of land pursuant to this subparagraph.

2 This clause is declaratory of, and not a change in, existing law.

3 (v) If the local agency disposes of land in violation of this  
4 subparagraph, the local agency shall be liable for a civil penalty  
5 calculated as follows:

6 (I) For a first violation, 30 percent of the greater of the final  
7 sale price or the fair market value of the land at the time of  
8 disposition.

9 (II) For a second or subsequent violation, 50 percent of the  
10 greater of the final sale price or the fair market value of the land  
11 at the time of disposition.

12 (III) For purposes of this subparagraph, fair market value shall  
13 be determined by an independent appraisal of the land.

14 (IV) An action to enforce this subparagraph may be brought by  
15 any of the following:

16 (ia) An entity identified in subdivisions (a) to (e), inclusive, of  
17 Section 54222.

18 (ib) A person who would have been eligible to apply for  
19 residency in affordable housing had the agency not violated this  
20 section.

21 (ic) A housing organization, as that term is defined in Section  
22 65589.5.

23 (id) A beneficially interested person or entity.

24 (ie) The Department of Housing and Community Development.

25 (V) A penalty assessed pursuant to this subparagraph shall,  
26 except as otherwise provided, be deposited into a local housing  
27 trust fund. The local agency may elect to instead deposit the penalty  
28 moneys into the Building Homes and Jobs Trust Fund or the  
29 Housing Rehabilitation Loan Fund. Penalties shall not be paid out  
30 of funds already dedicated to affordable housing, including, but  
31 not limited to, Low and Moderate Income Housing Asset Funds,  
32 funds dedicated to housing for very low, low-, and  
33 moderate-income households, and federal HOME Investment  
34 Partnerships Program and Community Development Block Grant  
35 Program funds. The local agency shall commit and expend the  
36 penalty moneys deposited into the local housing trust fund within  
37 five years of deposit for the sole purpose of financing newly  
38 constructed housing units that are affordable to extremely low,  
39 very low, or low-income households.



(VI) Five years after deposit of the penalty moneys into the local housing trust fund, if the funds have not been expended, the funds shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for the sole purpose of financing newly constructed housing units located in the same jurisdiction as the surplus land and that are affordable to extremely low, very low, or low-income households. Expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund pursuant to this subdivision shall be subject to appropriation by the Legislature.

(vi) For purposes of this subparagraph, the following definitions apply:

(I) “Sectional planning area” means an area composed of identifiable planning units, within which common services and facilities, a strong internal unity, and an integrated pattern of land use, circulation, and townscape planning are readily achievable.

(II) “Sectional planning area document” means a document or plan that sets forth, at minimum, a site utilization plan of the sectional planning area and development standards for each land use area and designation.

(vii) This subparagraph shall become inoperative on January 1, 2034.

(Q) Land that is owned by a California public-use airport on which residential uses are prohibited pursuant to Federal Aviation Administration Order 5190.6B, Airport Compliance Program, Chapter 20 – Compatible Land Use and Airspace Protection.

(R) Land that is transferred to a community land trust, and all of the following conditions are met:

(i) The property is being or will be developed or rehabilitated as any of the following:

(I) An owner-occupied single-family dwelling.

(II) An owner-occupied unit in a multifamily dwelling.

(III) A member-occupied unit in a limited equity housing cooperative.

(IV) A rental housing development.

(ii) Improvements on the property are or will be available for use and ownership or for rent by qualified persons, as defined in paragraph (6) of subdivision (c) of Section 214.18 of the Revenue and Taxation Code.

1 (iii) (I) A deed restriction or other instrument, requiring a  
2 contract or contracts serving as an enforceable restriction on the  
3 sale or resale value of owner-occupied units or on the affordability  
4 of rental units is recorded on or before the lien date following the  
5 acquisition of the property by the community land trust.

6 (II) For the purpose of this clause, the following definitions  
7 apply:

8 (ia) “A contract or contracts serving as an enforceable restriction  
9 on the sale or resale value of owner-occupied units” means a  
10 contract described in paragraph (11) of subdivision (a) of Section  
11 402.1 of the Revenue and Taxation Code.

12 (ib) “A contract or contracts serving as an enforceable restriction  
13 on the affordability of rental units” means an enforceable and  
14 verifiable agreement with a public agency, a recorded deed  
15 restriction, or other legal document described in subparagraph (A)  
16 of paragraph (2) of subdivision (g) of Section 214 of the Revenue  
17 and Taxation Code.

18 (iv) A copy of the deed restriction or other instrument shall be  
19 provided to the assessor.

20 (S) (i) For local agencies whose primary mission or purpose is  
21 to supply the public with a transportation system, surplus land that  
22 is developed for commercial or industrial uses or activities,  
23 including nongovernmental retail, entertainment, or office  
24 development or for the sole purpose of investment or generation  
25 of revenue, if the agency meets all of the following conditions:

26 (I) The agency has an adopted land use plan or policy that  
27 designates at least 50 percent of the gross acreage covered by the  
28 adopted land use plan or policy for residential purposes. The  
29 adopted land use plan or policy shall also require the development  
30 of at least 300 residential units, or at least 10 residential units per  
31 gross acre, averaged across all land covered by the land use plan  
32 or policy, whichever is greater.

33 (II) The agency has an adopted land use plan or policy that  
34 requires at least 25 percent of all residential units to be developed  
35 on the parcels covered by the adopted land use plan or policy made  
36 available to lower income households, as defined in Section 50079  
37 of the Health and Safety Code, at an affordable sales price or rented  
38 at an affordable rent, as defined in Sections 50052.5 and 50053 of  
39 the Health and Safety Code, for 55 years for rental housing and  
40 45 years for ownership housing, unless a local ordinance or the

1 terms of a federal, state, or local grant, tax credit, or other project  
2 financing requires a longer period of affordability. These terms  
3 shall be included in the land use plan or policy and dictate that  
4 they will be contained in a covenant or restriction recorded against  
5 the surplus land at the time of disposition that shall run with the  
6 land and be enforceable against any owner or lessee who violates  
7 the covenant or restriction and each successor in interest who  
8 continues the violation.

9 (III) Land disposed of for residential purposes shall issue a  
10 competitive request for proposals subject to the local agency's  
11 open, competitive solicitation process or put out to open,  
12 competitive bid by the local agency, provided that all entities  
13 identified in subdivision (a) of Section 54222 are invited to  
14 participate.

15 (IV) Prior to entering into an agreement to dispose of a parcel  
16 for nonresidential development on land designated for the purposes  
17 authorized pursuant to this subparagraph in an agency's adopted  
18 land use plan or policy, the agency, since January 1, 2020, must  
19 have entered into an agreement to dispose of a minimum of 25  
20 percent of the land designated for affordable housing pursuant to  
21 subclause (II).

22 (ii) The agency may exempt at one time all parcels covered by  
23 the adopted land use plan or policy pursuant to this subparagraph.

24 (2) Notwithstanding paragraph (1), a written notice of the  
25 availability of surplus land for open-space purposes shall be sent  
26 to the entities described in subdivision (b) of Section 54222 before  
27 disposing of the surplus land, provided the land does not meet the  
28 criteria in subparagraph (H) of paragraph (1), if the land is any of  
29 the following:

30 (A) Within a coastal zone.

31 (B) Adjacent to a historical unit of the State Parks System.

32 (C) Listed on, or determined by the State Office of Historic  
33 Preservation to be eligible for, the National Register of Historic  
34 Places.

35 (D) Within the Lake Tahoe region as defined in Section 66905.5.

36 (g) "Persons and families of low or moderate income" has the  
37 same meaning as provided in Section 50093 of the Health and  
38 Safety Code.

39 SEC. 2. Chapter 4.1.5 (commencing with Section 65912.155)  
40 is added to Division 1 of Title 7 of the Government Code, to read:

## CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT

65912.155. The Legislature finds and declares all of the following:

(a) California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure.

(b) Building more homes near transit access reduces housing and transportation costs for California families, and promotes environmental sustainability, economic growth, and reduced traffic congestion.

(c) Public transit systems require sustainable funding to provide reliable service, especially in areas experiencing increased density and ridership. The state does not invest in public transit service to the same degree as it does in roads, and the state funds a smaller proportion of the state's major transit agencies' operations costs than other states with comparable systems. Transit systems in other countries derive significant revenue from transit-oriented development at and near their stations.

65912.156. For purposes of this chapter, the following definitions apply:

(a) "Adjacent" means sharing a property line with a transit stop, including any parcels that serve a parking or circulation purpose related to the stop.

(b) "Commuter rail" means a rail transit service not meeting the standards for heavy rail or light rail, excluding California High-Speed Rail and Amtrak Long Distance Service.

(c) "Department" means the Department of Housing and Community Development.

(d) "Frequent commuter rail" means a commuter rail service with a total of at least 24 daily trains per weekday across both directions and not meeting the standard for very high or high-frequency commuter rail at any point in the past three years.

(e) "Heavy rail transit" means an electric railway with the capacity for a heavy volume of traffic using high-speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

1 (f) “High-frequency commuter rail” means a commuter rail  
2 service operating a total of at least 48 trains per day across both  
3 directions at any point in the past three years.

4 (g) “High-resource area” means a highest resource or  
5 high-resource neighborhood opportunity area, as used in the  
6 opportunity area maps published annually by the California Tax  
7 Credit Allocation Committee and the department.

8 (h) “Housing development project” has the same meaning as  
9 defined in Section 65589.5.

10 (i) “Light rail transit” includes streetcar, trolley, and tramway  
11 service.

12 (j) “Net habitable square footage” means the finished and heated  
13 floor area fully enclosed by the inside surface of walls, windows,  
14 doors, and partitions, and having a headroom of at least six and  
15 one-half feet, including working, living, eating, cooking, sleeping,  
16 stair, hall, service, and storage areas, but excluding garages,  
17 carports, parking spaces, cellars, half-stories, and unfinished attics  
18 and basements.

19 (k) “Rail transit” has the same meaning as defined in Section  
20 99602 of the Public Utilities Code.

21 (l) “Residential floor area ratio” means the ratio of net habitable  
22 square footage dedicated to residential use to the area of the lot.

23 (m) “Tier 1 transit-oriented development stop” means a ~~major~~  
24 ~~transit stop, as defined by Section 21155 of the Public Resources~~  
25 ~~Code, transit-oriented development stop within an urban transit~~  
26 ~~county served by heavy rail transit or very high frequency~~  
27 ~~commuter rail.~~

28 (n) “Tier 2 transit-oriented development stop” means a ~~major~~  
29 ~~transit stop, as defined by Section 21155 of the Public Resources~~  
30 ~~Code, transit-oriented development stop within an urban transit~~  
31 ~~county, excluding a Tier 1 transit-oriented development stop, served~~  
32 ~~by light rail transit, by high-frequency commuter rail, or by bus~~  
33 ~~service meeting the standards of paragraph (1) of subdivision (a)~~  
34 ~~of Section 21060.2 of the Public Resources Code.~~

35 (o) “Tier 3 transit-oriented development stop” means a ~~major~~  
36 ~~transit stop, as defined by Section 21155 of the Public Resources~~  
37 ~~Code, transit-oriented development stop within an urban transit~~  
38 ~~county, excluding a Tier 1 or Tier 2 transit-oriented development~~  
39 ~~stop, served by frequent commuter rail service or by ferry service.~~  
40 ~~service; or any transit-oriented development stop not within an~~

1 *urban transit county; or any major transit stop otherwise so*  
2 *designated by the applicable authority.*

3 (p) “Transit-oriented development stop” means a major transit  
4 stop, as defined by Section 21155 of the Public Resources Code,  
5 ~~excluding any stop served by rail transit with a frequency of fewer~~  
6 ~~than 10 total trains per weekday.~~ *served by heavy rail transit, very*  
7 *high frequency commuter rail, high frequency commuter rail, light*  
8 *rail transit, bus service meeting the standards of paragraph (1) of*  
9 *subdivision (a) of Section 21060.2 of the Public Resources Code,*  
10 *frequent commuter rail service, or ferry service, or otherwise so*  
11 *designated by the applicable authority.*

12 (q) “Urban transit county” means a county with 15 or more  
13 rail transit stations.

14 ~~(q)~~

15 (r) “Very high frequency commuter rail” means a commuter  
16 rail service with a total of at least 72 trains per day across both  
17 directions at any point in the past three years.

18 (s) “Qualified light industrial site” means a site zoned for light  
19 industrial use, but not heavy industrial use or Title V industrial  
20 use and that has not been not been exempted through the local  
21 implementing ordinance or local transit-oriented development  
22 alternative plan. “Light industrial use,” “heavy industrial use,”  
23 and “Title V industrial use” have the same meanings as defined  
24 in Section 65913.16.

25 65912.157. (a) A housing development project within one-half  
26 or one-quarter mile of a transit-oriented development stop shall  
27 be an allowed use on any site zoned for residential, mixed,  
28 ~~commercial, or light industrial or commercial development, or a~~  
29 ~~qualified light industrial site,~~ if the development complies with  
30 the applicable of all of the following requirements:

31 (1) For a residential development within one-quarter mile of a  
32 Tier 1 transit-oriented development stop, all of the following apply:

33 (A) A development may be built up to 75 feet high, or up to the  
34 local height limit, whichever is greater. ~~If a development proposes~~  
35 ~~a height under this subparagraph in excess of the local height limit,~~  
36 ~~then a local government shall not be required to grant a waiver,~~  
37 ~~incentive, or concession pursuant to Section 65915 for additional~~  
38 ~~height beyond that specified under this subparagraph, except as~~  
39 ~~provided in subparagraph (D) of paragraph (2) of subdivision (d)~~  
40 ~~of Section 65915.~~

1 (B) A local government shall not impose any maximum density  
2 of less than 120 dwelling units per acre. The development  
3 proponent may seek a further increased density in accordance with  
4 applicable density bonus law.

5 (C) A local government shall not enforce any other local  
6 development standard or combination of standards that would  
7 prevent achieving a residential floor area ratio of up to 3.5.

8 (D) A development that otherwise meets the eligibility  
9 requirements of Section 65915, including, but not limited to,  
10 affordability requirements, shall be eligible for three additional  
11 concessions pursuant to Section 65915.

12 (2) For a residential development further than one-quarter mile  
13 but within one-half mile of a Tier 1 transit-oriented development  
14 stop, all of the following apply:

15 (A) A development may be built up to 65 feet high, or up to the  
16 local height limit, whichever is greater. ~~If a development proposes~~  
17 ~~a height under this subparagraph in excess of the local height limit,~~  
18 ~~then a local government shall not be required to grant a waiver,~~  
19 ~~incentive, or concession pursuant to Section 65915 for additional~~  
20 ~~height beyond that specified under this subparagraph, except as~~  
21 ~~provided in subparagraph (D) of paragraph (2) of subdivision (d)~~  
22 ~~of Section 65915.~~

23 (B) A local government shall not impose any maximum density  
24 standard of less than 100 dwelling units per acre. The development  
25 proponent may seek a further increased density in accordance with  
26 applicable density bonus law.

27 (C) A local government shall not enforce any other local  
28 development standard or combination of standards that would  
29 prevent achieving a residential floor area ratio of up to 3.

30 (D) A development that otherwise meets the eligibility  
31 requirements of Section 65915, including, but not limited to,  
32 affordability requirements, shall be eligible for two additional  
33 concessions pursuant to Section 65915.

34 (3) For a residential development within one-quarter mile of a  
35 Tier 2 transit-oriented development stop, all of the following apply:

36 (A) A development may be built up to 65 feet high, or up to the  
37 local height limit, whichever is greater. ~~If a development proposes~~  
38 ~~a height under this subparagraph in excess of the local height limit,~~  
39 ~~then a local government shall not be required to grant a waiver,~~  
40 ~~incentive, or concession pursuant to Section 65915 for additional~~

1 height beyond that specified under this subparagraph, except as  
2 provided in subparagraph (D) of paragraph (2) of subdivision (d)  
3 of Section 65915.

4 (B) A local government shall not impose any maximum density  
5 standard of less than 100 dwelling units per acre. The development  
6 proponent may seek a further increased density in accordance with  
7 applicable density bonus law.

8 (C) A local government shall not enforce any other local  
9 development standard or combination of standards that would  
10 prevent achieving a residential floor area ratio of up to 3.

11 (D) A development that otherwise meets the eligibility  
12 requirements of Section 65915, including, but not limited to,  
13 affordability requirements, shall be eligible for two additional  
14 concessions pursuant to Section 65915.

15 (4) For a residential development further than one-quarter mile  
16 but within one-half mile of a Tier 2 transit-oriented development  
17 stop, all of the following apply:

18 (A) A development may be built up to 55 feet high, or up to the  
19 local height limit, whichever is greater. ~~If a development proposes~~  
20 ~~a height under this subparagraph in excess of the local height limit,~~  
21 ~~then a local government shall not be required to grant a waiver,~~  
22 ~~incentive, or concession pursuant to Section 65915 for additional~~  
23 ~~height beyond that specified under this subparagraph, except as~~  
24 ~~provided in subparagraph (D) of paragraph (2) of subdivision (d)~~  
25 ~~of Section 65915.~~

26 (B) A local government shall not impose any maximum density  
27 standard of less than 80 dwelling units per acre. The development  
28 proponent may seek a further increased density in accordance with  
29 applicable law.

30 (C) A local government shall not enforce any other local  
31 development standard or combination of standards that would  
32 prevent achieving a residential floor area ratio of up to 2.5.

33 (D) A development that otherwise meets the eligibility  
34 requirements of Section 65915, including, but not limited to,  
35 affordability requirements, shall be eligible for one additional  
36 concession pursuant to Section 65915.

37 (5) For a residential development within one-quarter mile of a  
38 Tier 3 transit-oriented development stop, all of the following apply:

39 (A) A development may be built up to 55 feet high, or up to the  
40 local height limit, whichever is greater. ~~If a development proposes~~



1 a height under this subparagraph in excess of the local height limit,  
2 then a local government shall not be required to grant a waiver,  
3 incentive, or concession pursuant to Section 65915 for additional  
4 height beyond that specified under this subparagraph, except as  
5 provided in subparagraph (D) of paragraph (2) of subdivision (d)  
6 of Section 65915.

7 (B) A local government shall not impose any maximum density  
8 standard of less than 80 dwelling units per acre. The development  
9 proponent may seek a further increased density in accordance with  
10 applicable density bonus law.

11 (C) A local government shall not enforce any other local  
12 development standard or combination of standards that would  
13 prevent achieving a residential floor area ratio of up to 2.5.

14 (D) A development that otherwise meets the eligibility  
15 requirements of Section 65915, including, but not limited to,  
16 affordability requirements, shall be eligible for one additional  
17 concession pursuant to Section 65915.

18 (6) For a residential development further than one-quarter mile  
19 but within one-half mile of a Tier 3 transit-oriented development  
20 stop, *stop within an urban transit county*, all of the following apply:

21 (A) A development may be built up to 45 feet high, or up to the  
22 local height limit, whichever is greater. ~~If a development proposes~~  
23 ~~a height under this subparagraph in excess of the local height limit,~~  
24 ~~then a local government shall not be required to grant a waiver,~~  
25 ~~incentive, or concession pursuant to Section 65915 for additional~~  
26 ~~height beyond that specified under this subparagraph, except as~~  
27 ~~provided in subparagraph (D) of paragraph (2) of subdivision (d)~~  
28 ~~of Section 65915.~~

29 (B) A local government shall not impose any maximum density  
30 standard of less than 60 dwelling units per acre. The development  
31 proponent may seek a further increased density in accordance with  
32 applicable density bonus law.

33 (C) A local government shall not enforce any other local  
34 development standard or combination of standards that would  
35 prevent achieving a residential floor area ratio of up to 2.

36 *(b) A local government may still enact and enforce standards,*  
37 *including an inclusionary zoning requirement that applies*  
38 *generally within the jurisdiction, that do not, alone or in concert,*  
39 *prevent achieving the applicable development standards of*  
40 *subdivision (a).*

1     (c) *If a development proposes a height under this section in*  
2 *excess of the local height limit, then a local government shall not*  
3 *be required to grant a waiver, incentive, or concession pursuant*  
4 *to Section 65915 for additional height beyond that specified in*  
5 *this section, except as provided in subparagraph (D) of paragraph*  
6 *(2) of subdivision (d) of Section 65915.*

7     ~~(b)~~

8     (d) Notwithstanding any other law, a housing development  
9 project that meets any of the eligibility criteria under subdivision  
10 (a) and is immediately adjacent to a Tier 1, Tier 2, or Tier 3  
11 transit-oriented development stop shall be eligible for an adjacency  
12 intensifier to increase the height limit by an additional 20 feet, the  
13 maximum density standard by an additional 40 dwelling units per  
14 acre, and the residential floor area ratio by 1.

15     ~~(e)~~

16     (e) A development proposed pursuant to this section shall  
17 comply with the antidisplacement requirements of Section 66300.6.  
18 This subdivision shall apply to any city or county.

19     (f) *A development proposed pursuant to this section shall include*  
20 *housing for lower income households in one of the following ways:*

21     (1) *If there is a local inclusionary zoning ordinance or*  
22 *affordable housing fee, it shall comply with the requirements of*  
23 *that ordinance or fee.*

24     (2) (A) *If there is no local inclusionary ordinance or affordable*  
25 *housing fee, a development of more than 10 units shall meet the*  
26 *requirements to qualify for a density bonus pursuant to subdivision*  
27 *(b) of Section 65915 or a local ordinance.*

28     (B) *This paragraph shall not apply to any development of 10*  
29 *units or less.*

30     ~~(d)~~

31     (g) For purposes of subdivision (j) of Section 65589.5, a  
32 proposed housing development project that is consistent with the  
33 applicable standards from this chapter shall be deemed consistent,  
34 compliant, and in conformity with an applicable plan, program,  
35 policy, ordinance, standard, requirement, or other similar provision.  
36 *This subdivision shall not require a ministerial approval process*  
37 *or modify the requirements of Division 13 (commencing with*  
38 *Section 21000) of the Public Resources Code.*

39     ~~(e)~~

(h) A local government that denies a housing development project meeting the requirements of this section that is located in a high-resource area shall be presumed to be in violation of the Housing Accountability Act (Section 65589.5) and immediately liable for penalties pursuant to subparagraph (B) of paragraph (1) of subdivision (k) of Section 65589.5, unless the local government demonstrates, pursuant to the standards in subdivisions (j) and (o) of Section 65589.5, that it has a health, life, or safety reason for denying the project.

65912.158. (a) Notwithstanding any other provision of this chapter, a transit agency may adopt objective standards for both residential and commercial developments proposed to be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, if *the land is within one-half mile of a transit-oriented development stop and* the objective standards allow for the same or greater development intensity as that allowed by local standards or applicable state law.

(b) *The board of a transit agency may vote to designate a major transit stop served by the agency as a Tier 3 transit-oriented development stop for the purposes of this section.*

65912.159. (a) A housing development project proposed pursuant to Section 65912.157 shall be eligible for streamlined ministerial approval pursuant to Section 65913.4 in accordance with all of the following:

~~(a)~~  
(1) The proposed project shall be exempt from subparagraph (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of subparagraph (A) of paragraph (6) of, subdivision (a) of Section 65913.4.

~~(b)~~  
(2) The proposed project shall comply with the affordability requirements in subclauses (I)~~through~~ to (III), inclusive, of clause (i) of subparagraph (B) of paragraph (4) of subdivision (a) of Section 65913.4.

~~(c)~~  
(3) The proposed project shall comply with all other requirements of Section 65913.4, including, but not limited to, the prohibition against a site that is within a very high fire hazard severity zone, pursuant to subparagraph (D) of paragraph (6) of subdivision (a) of Section 65913.4.

1 *(b) Any housing development proposed pursuant to Section*  
2 *65912.157 not seeking streamlined approval under Section 65913.4*  
3 *shall be reviewed according to the jurisdiction's development*  
4 *review process and Section 65589.5, except that any local zoning*  
5 *standard conflicting with the requirements of this chapter shall*  
6 *not apply.*

7 65912.160. (a) The department shall oversee compliance with  
8 this chapter, including, but not limited to, promulgating standards  
9 on how to account for capacity pursuant to this chapter in a city  
10 or county's inventory of land suitable for residential development,  
11 pursuant to Section 65583.2.

12 ~~(b) (1) A local government may adopt an ordinance to~~  
13 ~~implement the provisions of this chapter, which may include~~  
14 ~~revisions to applicable zoning requirements on individual sites~~  
15 ~~within a transit-oriented development zone, provided that those~~  
16 ~~revisions maintain the average density allowed for the applicable~~  
17 ~~tier, or up to a 100-percent increase, subject to review by the~~  
18 ~~department pursuant to paragraph (3).~~

19 *(b) The regional council of governments or metropolitan*  
20 *planning organization may create a map of transit-oriented*  
21 *development stops and zones designated under this chapter. This*  
22 *map shall have a rebuttable presumption of validity for use by*  
23 *project applicants and local governments.*

24 *(c) (1) A local government may enact an ordinance to make its*  
25 *zoning code consistent with the provisions of this chapter, subject*  
26 *to review by the department pursuant to paragraph (3).*

27 *(2) The ordinance may select qualified light industrial sites to*  
28 *designate as exempt from the requirements of this chapter, so long*  
29 *as residential uses were not permitted prior to January 1, 2025.*

30 ~~(2) An~~

31 ~~(3) The ordinance adopted to implement this section described~~  
32 ~~in paragraph (2) shall not be considered a project under Division~~  
33 ~~13 (commencing with Section 21000) of the Public Resources~~  
34 ~~Code.~~

35 ~~(3)~~

36 *(4) (A) A local government shall submit a copy of any*  
37 *ordinance adopted enacted pursuant to this section to the*  
38 *department within 60 days of adoption: enactment.*

39 *(B) Upon receipt of an ordinance pursuant to this paragraph,*  
40 *the department shall review that ordinance and determine whether*

1 it complies with this section. If the department determines that the  
2 ordinance does not comply with this section, the department shall  
3 notify the local government in writing and provide the local  
4 government a reasonable time, not to exceed 30 days, to respond  
5 before taking further action as authorized by this section.

6 (C) The local government shall consider any findings made by  
7 the department pursuant to subparagraph (B) and shall do one of  
8 the following:

9 (i) Amend the ordinance to comply with this section.

10 (ii) ~~Adopt~~ *Enact* the ordinance without changes. The local  
11 government shall include findings in its resolution adopting the  
12 ordinance that explain the reasons the local government believes  
13 that the ordinance complies with this section despite the findings  
14 of the department.

15 (D) If the local government does not amend its ordinance in  
16 response to the department's findings or does not adopt a resolution  
17 with findings explaining the reason the ordinance complies with  
18 this chapter and addressing the department's findings, the  
19 department shall notify the local government and may notify the  
20 Attorney General that the local government is in violation of this  
21 section.

22 *65912.161. (a) A local government may enact a local*  
23 *transit-oriented development alternative plan as an amendment*  
24 *to the housing element and land use element of its general plan,*  
25 *subject to review by the department.*

26 *(1) (A) A local transit-oriented development alternative plan*  
27 *shall maintain at least the same total increase in feasible zoned*  
28 *capacity, in terms of both total units and residential floor area, as*  
29 *provided for in this chapter across all transit-oriented development*  
30 *zones within the jurisdiction.*

31 *(i) The plan may select qualified light industrial sites to*  
32 *designate as exempt from the requirements of this chapter, so long*  
33 *as residential uses were not permitted on those sites prior to*  
34 *January 1, 2025.*

35 *(ii) The plan shall not reduce the capacity in any station area,*  
36 *in total units or residential floor area, by more than 50 percent.*

37 *(iii) The plan shall not reduce the allowed density for any*  
38 *individual site allowing residential use by more than 50 percent*  
39 *below that permitted under this chapter.*

1 (iv) A site's maximum feasible capacity counted toward the plan  
2 shall be not more than 200 percent of the maximum density  
3 established under this chapter.

4 (B) For the purposes of this paragraph, both of the following  
5 definitions apply:

6 (i) "Feasible" means capable of being accomplished in a  
7 successful manner within a reasonable period of time, taking into  
8 account economic, environmental, social, and technological  
9 factors.

10 (ii) "Transit-oriented development zone" means the eligible  
11 area around a qualifying transit-oriented development stop.

12 (2) A local transit-oriented development alternative plan may  
13 designate any other major transit stop or stop along a high-quality  
14 transit corridor that is not already identified as a transit-oriented  
15 development stop as a Tier 3 transit-oriented development stop.  
16 A local transit-oriented development plan consisting solely of  
17 adding additional major transit stops as transit-oriented  
18 development stops shall be exempt from the requirements of  
19 paragraph (4).

20 (3) A local transit-oriented development alternative plan may  
21 consist of an existing local transit-oriented zoning ordinance,  
22 overlay zone, specific plan, or zoning incentive ordinance, provided  
23 that it applies to all residential properties within the  
24 transit-oriented development area and provides at least the same  
25 total feasible capacity for units and floor area as Section  
26 65912.157.

27 (4) Prior to enacting a local transit-oriented development  
28 alternative plan, the local government shall submit the draft plan  
29 to the department for review. The submission shall include any  
30 amendments to the local zoning ordinances, any applicable  
31 objective design standards that would apply to transit-oriented  
32 developments, and assessments of the plan's impact on  
33 development feasibility and fair housing. The department shall  
34 assess whether the plan maintains at least an equal feasible  
35 developable housing capacity as the baseline established under  
36 this section as well as the plan's effects on fair housing relative  
37 to the baseline established under this section, and shall recommend  
38 changes to remove unnecessary constraints on housing from the  
39 plan.

1     **(b)** *Section 65912.157 shall not apply within a jurisdiction that*  
2 *has a local transit-oriented alternative plan that has been approved*  
3 *by the department as satisfying the requirements of this section in*  
4 *effect. The department's approval pursuant to this subdivision*  
5 *shall be valid through the jurisdiction's next amendment to the*  
6 *housing element of its general plan.*

7     ~~65912.161.~~

8     **65912.162.** The Legislature finds and declares that the state  
9 faces a housing crisis of availability and affordability, in large part  
10 due to a severe shortage of housing, and solving the housing crisis  
11 therefore requires a multifaceted, statewide approach, including,  
12 but not limited to, encouraging an increase in the overall supply  
13 of housing, encouraging the development of housing that is  
14 affordable to households at all income levels, removing barriers  
15 to housing production, expanding homeownership opportunities,  
16 and expanding the availability of rental housing, and is a matter  
17 of statewide concern and is not a municipal affair as that term is  
18 used in Section 5 of Article XI of the California Constitution.  
19 Therefore, this chapter applies to all cities, including charter cities.

20     **SEC. 3.** Section 21080.26.5 is added to the Public Resources  
21 Code, to read:

22     **21080.26.5.** (a) For the purposes of this section, “public  
23 project” means a project constructed by either a public agency or  
24 private entity, that, upon the completion of the construction, will  
25 be operated by a public agency.

26     (b) This division shall not apply to a public or private residential,  
27 commercial, or ~~mixed-use~~ *mixed-use* project that, at the time the  
28 project application is filed, is located entirely or principally on  
29 land owned by a public transit agency, or fully or partially  
30 encumbered by an existing operating easement in favor of a public  
31 transit agency, and that includes at least one of the following:

32     (1) A project component identified in paragraphs (1) to (5),  
33 inclusive, or paragraph (7) of subdivision (b) of Section 21080.25.

34     (2) A public project for passenger rail service facilities, other  
35 than light rail service eligible under paragraph (5) of subdivision  
36 (b) of Section 21080.25, including the construction,  
37 reconfiguration, or rehabilitation of stations, terminals, rails,  
38 platforms, or existing operations facilities, which will be  
39 exclusively used by zero-emission or electric trains. The project  
40 shall be located on land owned by a public transit agency, or land

1 fully or partially encumbered by an existing operating easement  
2 in favor of a public transit agency, at the time the project  
3 application is filed.

4 (3) An agreement between the project applicant and public  
5 transit agency that owns the land or has the permanent operating  
6 easement to finance transit capital infrastructure, transit  
7 maintenance, or transit operations, including through a proposed  
8 public financing district, community financing district, or tax  
9 increment generated by the project.

10 *(c) If the project described in paragraph (1) of subdivision (b)*  
11 *is located on land fully or partially encumbered by an existing*  
12 *operating easement in favor of a public transit agency at the time*  
13 *the project application is filed, the transit agency, the grantor of*  
14 *the easement, and all fee owners of the property encumbered by*  
15 *the easement must sponsor or consent to the application. Nothing*  
16 *in this section shall be interpreted to authorize a transit agency*  
17 *to construct a project described in paragraph (1) of subdivision*  
18 *(b) unless permitted by its operating easement or unless the*  
19 *easement is terminated, in each case prior to the commencement*  
20 *of construction.*

21 ~~(e)~~

22 (d) If a project described in subdivision (b) requires the  
23 construction of new passenger rail storage and maintenance  
24 facilities at a publicly or privately owned offsite location distinct  
25 from the principal project site, then that project shall be considered  
26 a wholly separate project from the project described in subdivision  
27 (b) and shall not be exempt from this division. Any required  
28 environmental review shall not affect or render invalid the  
29 exemption provided in subdivision (b), regardless of whether the  
30 project described in subdivision (b) cannot proceed unless the  
31 offsite facilities are constructed.

32 SEC. 4. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 a local government or school district has the authority to levy  
35 service charges, fees, or assessments sufficient to pay for the  
36 program or level of service mandated by this act, within the  
37 meaning of Section 17556 of the Government Code.

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