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TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66342] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 3. Local Planning [65100 - 65763] (*Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 14. Actions or Proceedings [65750 - 65763] (*Article 14 added by Stats. 1982, Ch. 27, Sec. 2.)*

65750. As used in this article, unless the context requires otherwise:

(a) "Petition" includes any form of pleading brought pursuant to Section 65751, whether it is a petition, complaint, cross-complaint, complaint in intervention, or any other form.

(b) "Petitioner" includes a petitioner, plaintiff, cross-complainant, or intervenor who files an action of any kind pursuant to Section 65751.

(*Repealed and added by Stats. 1984, Ch. 1039, Sec. 2.*)

65751. Any action to challenge a general plan or any element thereof on the grounds that such plan or element does not substantially comply with the requirements of Article 5 (commencing with Section 65300) shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

(*Amended by Stats. 1984, Ch. 1039, Sec. 3.*)

65752. All actions brought pursuant to Section 65751, including the hearing of any such action on appeal from the decision of a lower court, shall be given preference over all other civil actions before the court in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be speedily heard and determined.

(*Added by Stats. 1982, Ch. 27, Sec. 2.*)

65753. (a) The petitioner shall request a hearing or trial on the alternative writ or peremptory writ of mandate, and any other party may request a hearing or trial, within 90 days of the date the petitioner files the petition for a writ of mandate pursuant to Section 65751. If no request for a hearing or trial is filed within 90 days of the date that petition is filed, the action or proceeding may be set for hearing or trial or dismissed on the motion of any party other than the petitioner or may be dismissed on the court's own motion.

(b) Within 30 days of the filing of the request for a hearing or trial pursuant to subdivision (a), the court shall set a date for a hearing or trial on the action or part of an action brought pursuant to Section 65751. The hearing or trial shall be set to be heard at the earliest possible date that the business of the court permits, but not more than 120 days after the filing of a request for hearing under this section. The court may continue for a reasonable time the date of the hearing or trial upon written motion and a finding of good cause. However, if the court grants a continuance to a respondent, it shall, upon the written motion of the petitioner and upon the petitioner meeting the requirements of Section 65757, grant the relief provided in Section 65757 as temporary relief but shall not enjoin any housing developments which comply with applicable provisions of law and which may be developed without having an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

(*Amended by Stats. 1984, Ch. 1039, Sec. 4.*)

65754. In any action brought to challenge the validity of the general plan of any city, county, or city and county, or any mandatory element thereof, if the court, in a final judgment in favor of the plaintiff or petitioner, finds that the general plan or any mandatory element of the general plan does not substantially comply with the requirements of Article 5 (commencing with Section 65300):

(a) The city, county, or city and county shall bring its general plan or relevant mandatory element or elements thereof into compliance with the requirements of Article 5 (commencing with Section 65300) within 120 days.

Notwithstanding the provisions of subdivision (b) of Section 65585, the planning agency of the city, county, or city and county shall submit a draft of its revised housing element or housing element amendment at least 45 days prior to its adoption to the Department of Housing and Community Development for its review, notifying the department that the element is subject to the review procedure set forth in this section.

The department shall review the draft element or amendment and report its findings to the planning agency within 45 days of receipt of the draft. The legislative body shall consider the department's findings prior to final adoption of the housing element or amendment if the department's findings are reported to the planning agency within 45 days after the department receives that draft element or amendment.

(b) The city or county, including the chartered cities specified in subdivision (d) of Section 65860, shall, in accordance with Section 65860, bring its zoning ordinance into consistency with its general plan or relevant mandatory element or elements thereof within 120 days after the general plan has been amended in accordance with subdivision (a).

(Amended by Stats. 1984, Ch. 1039, Sec. 5.)

65754.5. (a) During the pendency of any action described in Section 65754, or when issuing a final judgment in favor of the plaintiff or petitioner finding that the general plan or any element thereof does not conform to the requirements of Article 5 (commencing with Section 65300), the court shall not enjoin the development of any housing development with respect to which all of the following conditions are met:

(1) The legislative body of the city, county, or city and county has approved a development project, as defined by Section 65928, for housing or a specific plan for the housing development and determined the development project for housing or the specific plan to be consistent with the general plan of the city, county, or city and county.

(2) The legislative body of the city, county, or city and county has certified an environmental impact report or a negative declaration for the development project for housing or for the specific plan for housing pursuant to the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, and no legal action was brought within the applicable statute of limitations period relating to that environmental impact report or negative declaration.

(3) The owner of the land upon which the housing is proposed to be developed, in satisfaction of any requirements imposed and in reliance upon any action taken by the city, county, or city and county pursuant to paragraphs (1) and (2), has irrevocably committed one million dollars (\$1,000,000), or more, for public infrastructure, including, but not limited to, roads, and water and sewer facilities.

(4) The proposed housing development may be developed without having an impact upon the city, county, or city and county's ability to implement an adequate housing element or to properly adopt an adequate housing element if the court determines, in the pending action, that the general plan or plan element is inadequate. The court shall apply the provisions of Section 65760 to determine whether a housing development will have an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

(b) The provisions of this section shall be applicable to any legal action pending on January 1, 1984, and to every action commenced on or after that date.

(c) This section shall not be construed to preclude a public agency from exercising discretion, in a manner authorized by any other provision of law, to alter plans, zoning, or subsequent development approvals applicable to those lands, or from enacting and enforcing further regulations upon their use.

(Added by Stats. 1983, Ch. 911, Sec. 2.)

65755. (a) The court shall include, in the order or judgment rendered pursuant to Section 65754, one or more of the following provisions for any or all types or classes of developments or any or all geographic segments of the city, county, or city and county until the city, county, or city and county has substantially complied with the requirements of Article 5 (commencing with Section 65300):

(1) Suspend the authority of the city, county, or city and county pursuant to Division 13 (commencing with Section 17910) of the Health and Safety Code, to issue building permits, or any category of building permits, and all other related permits, except that the city, county, or city and county shall continue to function as an enforcement agency for review of permit applications for appropriate codes and standards compliance, prior to the issuance of building permits and other related permits for residential housing for that city, county, or city and county.

(2) Suspend the authority of the city, county, or city and county, pursuant to Chapter 4 (commencing with Section 65800) to grant any and all categories of zoning changes, variances, or both.

(3) Suspend the authority of the city, county, or city and county, pursuant to Division 2 (commencing with Section 66410), to grant subdivision map approvals for any and all categories of subdivision map approvals.

(4) Mandate the approval of all applications for building permits, or other related construction permits, for residential housing where a final subdivision map, parcel map, or plot plan has been approved for the project, where the approval will not impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element, and where the permit application conforms to all code requirements and other applicable provisions of law except those zoning laws held to be invalid by the final court order, and changes to the zoning ordinances adopted after such final court order which were enacted for the purpose of preventing the construction of a specific residential development.

(5) Mandate the approval of any or all final subdivision maps for residential housing projects which have previously received a tentative map approval from the city, county, or city and county pursuant to Division 2 (commencing with Section 66410) when the final map conforms to the approved tentative map, the tentative map has not expired, and where approval will not impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

(6) Mandate that notwithstanding the provisions of Sections 66473.5 and 66474, any tentative subdivision map for a residential housing project shall be approved if all of the following requirements are met:

(A) The approval of the map will not significantly impair the ability of the city, county, or city and county to adopt and implement those elements or portions thereof of the general plan which have been held to be inadequate.

(B) The map complies with all of the provisions of Division 2 (commencing with Section 66410), except those parts which would require disapproval of the project due to the inadequacy of the general plan.

(C) The approval of the map will not affect the ability of the city, county, or city and county to adopt and implement an adequate housing element.

(D) The map is consistent with the portions of the general plan not found inadequate and the proposed revisions, if applicable, to the part of the plan held inadequate.

(b) Any order or judgment of a court which includes the remedies described in paragraphs (1), (2), or (3) of subdivision (a) shall exclude from the operation of that order or judgment any action, program, or project required by law to be consistent with a general or specific plan if the court finds that the approval or undertaking of the action, program, or project complies with both of the following requirements:

(1) That it will not significantly impair the ability of the city, county, or city and county to adopt or amend all or part of the applicable plan as may be necessary to make the plan substantially comply with the requirements of Article 5 (commencing with Section 65300) in the case of a general plan, or Article 8 (commencing with Section 65450) in the case of a specific plan.

(2) That it is consistent with those portions of the plan challenged in the action or proceeding and found by the court to substantially comply with applicable provisions of law.

The party seeking exclusion from any order or judgment of a court pursuant to this subdivision shall have the burden of showing that the action, program, or project complies with paragraphs (1) and (2).

(c) Notwithstanding Section 65754.4 or subdivisions (a) and (b), in any action or proceeding brought pursuant to subdivision (d) of Section 65009, no remedy pursuant to this section or injunction pursuant to Section 65754.5 shall abrogate, impair, or otherwise interfere with the full exercise of the rights and protections granted to (1) an applicant for a tentative map pursuant to Section 66474.2, or (2) a developer pursuant to Sections 65866 and 66498.1.

(Amended by Stats. 2013, Ch. 767, Sec. 4. (AB 325) Effective January 1, 2014.)

65756. If the court orders a reference of any action brought pursuant to this article or pursuant to any provision of law which grants a court the authority to appoint expert witnesses, monitors, masters, or other third party judicial assistants used in complex litigation, the referee, monitor, master, or third party judicial assistant so appointed shall report their findings to the court within not more than 90 days following that reference.

(Amended by Stats. 1984, Ch. 1039, Sec. 7.)

65757. During the pendency of any action described in Section 65754, the court may, upon a showing of probable success on the merits, grant the relief provided in Section 65755 as temporary relief. In any order granting temporary relief, the court shall not enjoin during the pendency of the action any housing developments which comply with applicable provisions of law and which may be developed without having an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element. Any housing developments permitted to proceed during the pendency of the action shall not be subject to the restrictions specified in subdivision (a) or (b) of Section 65754 as part of any final judgment.

(Added by Stats. 1982, Ch. 27, Sec. 2.)

65758. If the court orders any temporary relief in an action or proceeding subject to this article, any party to the action or proceeding may file with the court a written request that the court make a final determination in the action or proceeding, and the court shall thereafter make a final determination and enter judgment within 180 days of the date the request was filed, unless the party who filed the request files a withdrawal of the request with the court prior to the filing by the court of its memorandum of intended decision.

(Repealed and added by Stats. 1984, Ch. 1039, Sec. 9.)

65759. In any action brought under this section:

(a) The California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, does not apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article.

(1) The local agency shall, however, prepare an initial study, within the time limitations specified in Section 65754, to determine the environmental effects of the proposed action necessary to comply with the court order. The initial study shall contain substantially the same information as is required for an initial study pursuant to subdivision (c) of Section 15080 of Title 14 of the California Code of Regulations.

(2) If as a result of the initial study, the local agency determines that the action may have a significant effect on the environment, the local agency shall prepare, within the time limitations specified in Section 65754, an environmental assessment, the content of which substantially conforms to the required content for a draft environmental impact report set forth in Article 9 (commencing with Section 15140) of Title 14 of the California Code of Regulations. The local agency shall include notice of the preparation of the environmental assessment in all notices provided for the amendments to the general plan proposed to comply with the court order.

(3) The environmental assessment shall be deemed to be a part of the general plan and shall only be reviewable as provided in this article.

(4) The local agency may comply with the provisions of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, in any action necessary to bring its general plan or the plan's relevant mandatory elements into compliance with any court order or judgment under this section so long as it does so within the time limitations specified in Section 65754.

(b) The court for good cause shown may grant not more than two extensions of time, not to exceed a total of 240 days, in order to meet the requirements imposed by Section 65754.

(Amended by Stats. 1991, Ch. 1183, Sec. 3.)

65760. In determining whether a housing development will have an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element, the court shall consider all relevant factors. There is a conclusive presumption that any housing development, 25 percent of which units are affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, can be developed without having an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element, except where the approval of a housing development may prevent the city, county, or city and county from complying with the final judgment of the court.

(Amended by Stats. 1984, Ch. 1039, Sec. 9.5.)

65761. In no event shall any court grant as relief in any action brought pursuant to this article the revocation of any building permits or related permits for the construction of residential housing which has been issued prior to the filing of the complaint in such action.

Nothing in this section shall be construed as a limitation on the ability to bring an action and to grant relief for a violation of Article 10.5 (commencing with Section 65560).

(Added by Stats. 1982, Ch. 27, Sec. 2.)

65762. Nothing in this article shall prohibit a court from invalidating any development permit based on failure to comply with the Subdivision Map Act, Division 2 (commencing with Section 66401) of Title 7 of the Government Code, the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, the Planning and Zoning Law, Title 7 (commencing with Section 65000) of the Government Code, or other applicable laws.

The procedures and remedies set forth in this article shall not be construed to affect the substantive standards of court review of a general plan or of other local government land use decisions. The remedies set forth in this article are interim measures which shall have no application after a general plan has been revised to substantially comply with state law.

(Added by Stats. 1984, Ch. 1039, Sec. 10.)

65763. (a) The provisions of this article apply to all actions, proceedings, and causes of action set forth in this article, whether commenced or alleged by the filing of a petition, complaint, cross-complaint, complaint in intervention, or otherwise.

(b) Nothing in this article shall be deemed or construed to create any cause of action in or to confer standing to sue upon any person, entity, public officer, or agency in the State of California, or any other public officer or agency.

(Added by Stats. 1984, Ch. 1039, Sec. 11.)