AB-2243 Housing development projects: objective standards: affordability and site criteria. (2023-2024)

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Assembly Bill No. 2243

CHAPTER 272

An act to amend Sections 65852.24, 65912.101, 65912.111, 65912.112, 65912.113, 65912.114, 65912.121, 65912.122, 65912.123, and 65912.124 of, and to add Section 65912.106 to, the Government Code, relating to housing.

[Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2243, Wicks. Housing development projects: objective standards: affordability and site criteria.

(1) Existing law, the Middle Class Housing Act of 2022, provides that a housing development project is an allowable use on a parcel that is within a zone where office, retail, or parking is a principally permitted use, if the proposed development complies with specified requirements. Under that act, one of those requirements is that the project site is 20 acres or less.

This bill, if the site is a regional mall, as defined, would instead require that the project site not be greater than 100 acres.

(2) Existing law, the Affordable Housing and High Road Jobs Act of 2022, until January 1, 2033, authorizes a development proponent to submit an application for an affordable housing development or a mixed-income housing development that meets specified objective standards and affordability and site criteria, including being located within a zone where office, retail, or parking are a principally permitted use. The act makes a development that meets those objective standards and affordability and site criteria a use by right and subject to one of 2 streamlined, ministerial review processes depending on, among other things, the affordability requirements applicable to the project.

This bill would make various changes to the objective standards and affordability and site criteria applicable to an affordable housing development or mixed-income housing development subject to the streamlined, ministerial review process under the act. Among other changes to those objective standards, the bill would prohibit an affordable housing development subject to the act from demolishing a historic structure that was placed on a national, state, or local historic register.

(3) The Affordable Housing and High Road Jobs Act of 2022 prohibits a housing development from being subject to the streamlined, ministerial approval process if it is located on a site or adjoined to a site where more than $^{1}/_{3}$ of the square footage is dedicated to industrial use in the latest version of a local government's general plan adopted before January 1, 2022.

This bill would instead prohibit a housing development from being subject to the streamlined, ministerial approval process if it was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022, and either residential uses are not principally permitted on the site.

Existing law prohibits a housing development from being subject to the streamlined, ministerial approval process if it is located within 500 feet of a freeway.

This bill would authorize a housing development located within 500 feet of a freeway to be subject to the streamlined, ministerial approval process, provided that the building meets specified criteria, including that it will have a centralized heating, ventilation, and air-conditioning system.

This bill would prohibit a local government from imposing any density limitation on a mixed-income development project that is a conversion of existing buildings into residential use, except as specified.

The act prohibits a mixed-income housing development subject to the streamlined, ministerial review process from being located on a site greater than 20 acres.

This bill, if the mixed-income housing development is located on a site that is a regional mall, as defined, would prohibit the development from being located on a site greater than 100 acres.

(4) Affordable Housing and High Road Jobs Act of 2022 requires a mixed-income housing development subject to the streamlined, ministerial review process to meet specified affordability criteria. In this regard, the act requires a rental housing development to include either 8% of the units for very low income households and 5% of the units for extremely low income households or 15% of the units for lower income households. In the case of an owner-occupied housing development, the act requires either 30% of the units be offered to moderate-income households or 15% of the units be offered to lower income households.

This bill would clarify that those affordability thresholds apply only to the base units of the housing development project and excludes units added by a density bonus, among other changes.

(5) Existing law defines various terms for purposes of the Affordable Housing and High Road Jobs Act of 2022. The act defines “use by right” to mean that the development is not subject to a conditional use permit or other discretionary local government review and the development project is not a “project” for purposes of the California Environmental Quality Act.

This bill would revise various definitions for purposes of the act. The bill would clarify that “use by right” means that the development project is not subject to a conditional use permit or any other discretionary local government approval, permit, or review process and no aspect of the development project, including any permits required for the development project, is a “project” for purposes of the California Environmental Quality Act.

Existing law requires at least 75% of the perimeter of the housing development site to be adjoined with parcels that are developed with urban uses in order to be subject to the act. The act defines “urban uses” to include any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use.

This bill would include a public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, or retail use, or any combination of those uses, as an “urban use.”

(6) Existing law requires a local government that determines a housing development project is in conflict with any of the standards established in the act to provide the development proponent written documentation of the standards with which the development conflicts within 60 days or 90 days of the submittal of the development proposal, depending on the number of housing units.

This bill would require a local government to determine, in writing, whether a development is consistent or inconsistent with the act within specified timeframes, including 30 days of submittal of a development proposal that was resubmitted to address written feedback. The bill, after the local government determines that a development is consistent with the objective planning standards of the act, would require a local government to approve a development within 60 days or within 90 days, depending on the number of housing units.

(7) The Affordable Housing and High Road Jobs Act of 2022 authorizes a local government, by ordinance, to exempt parcels from the act if the local government makes specified written findings, including that the local government identifies another parcel that meets the requirements of the act and that the substitution of parcels will result in no net loss of the total residential capacity in the jurisdiction.

This bill would additionally require the local government to designate the exempted parcels and identify the reclassified parcels on its zoning maps, as specified.

(8) This bill would provide that the provisions of the Affordable Housing and High Road Jobs Act of 2022 as applicable on December 31, 2024, apply to a housing development project application that is submitted on or before December 31, 2024, unless the development proponent chooses to be subject to any of the provisions of the act as applicable on January 1, 2025.

(9) The bill would make various other clarifying and technical changes.

(10) Because the bill would impose various new requirements on local governments reviewing and approving affordable housing developments and mixed-income housing developments under the act, the bill would impose a state-mandated local program.

(11) The 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.

(12) 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65852.24 of the Government Code is amended to read:

65852.24. (a) (1) This section shall be known, and may be cited, as the Middle Class Housing Act of 2022.

(2) The Legislature finds and declares all of the following:

(A) Creating more affordable housing is critical to the achievement of regional housing needs assessment goals, and that housing units developed at higher densities may generate affordability by design for California residents, without the necessity of public subsidies, income eligibility, occupancy restrictions, lottery procedures, or other legal requirements applicable to deed restricted affordable housing to serve very low and low-income residents and special needs residents.

(B) The state has made historic investments in deed-restricted affordable housing. According to the Legislative Analyst's Office, the state budget provided nearly five billion dollars ($5,000,000,000) in the 2021–22 budget year for housing-related programs. The 2022–23 budget further built on that sum by allocating nearly one billion two hundred million dollars ($1,200,000,000) to additional affordable housing programs.

(C) There is continued need for housing development at all income levels, including missing middle housing that will provide a variety of housing options and configurations to allow every Californian to live near where they work.

(D) The Middle Class Housing Act of 2022 will unlock the development of additional housing units for middle-class Californians near job centers, subject to local inclusionary requirements that are set based on local conditions.

(b) A housing development project shall be deemed an allowable use on a parcel that is within a zone where office, retail, or parking are a principally permitted use if it complies with all of the following:

(1) The density for the housing development shall meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(2) (A) The housing development shall be subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density described in paragraph (1).

(B) If more than one zoning designation of the local agency allows for housing with the density described in paragraph (1), the zoning standards applicable to a parcel that allows residential use pursuant to this section shall be the zoning standards that apply to the closest parcel that allows residential use at a density that meets the requirements of paragraph (1).

(C) If the existing zoning designation for the parcel, as adopted by the local government, allows residential use at a density greater than that required in paragraph (1), the existing zoning designation shall apply.

(3) The housing development shall comply with any public notice, comment, hearing, or other procedures imposed by the local agency on a housing development in the applicable zoning designation identified in paragraph (2).

(4) The project site is 20 acres or less, unless the site is a regional mall, as defined in subdivision (r) of Section 65912.101, in which case the site is not greater than 100 acres.

(5) The housing development complies with all other objective local requirements for a parcel, other than those that prohibit residential use, or allow residential use at a lower density than provided in paragraph (1), including, but not limited to, impact fee requirements and inclusionary housing requirements.

(6) The development and the site on which it is located satisfy both of the following:

(A) It is a legal parcel or parcels that meet either of the following:

(i) It is within a city where the city boundaries include some portion of an urban area, as designated by the United States Census Bureau.

(ii) It is in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urban area, as designated by the United States Census Bureau.

(B) (i) It is not on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use.

(ii) For purposes of this subparagraph, parcels only separated by a street or highway shall be considered to be adjoined.

(iii) For purposes of this subparagraph, "dedicated to industrial use" means either of the following:

(I) The square footage is currently being used as an industrial use.

(II) The most recently permitted use of the square footage is an industrial use.

(III) The site was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022.

(7) The housing development is consistent with any applicable and approved sustainable community strategy or alternative plan, as described in Section 65080.

(8) The developer has done both of the following:

(A) Certified to the local agency that either of the following is true:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) The development is not in its entirety a public work for which prevailing wages must be paid under Article 2 (commencing with Section 1720) of Chapter 1 of Part 2 of Division 2 of the Labor Code, but all construction workers employed on construction of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The developer shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(VII) All contractors and subcontractors shall be registered in accordance with Section 1725.6 of the Labor Code.

(VIII) The development proponent shall provide notice of all contracts for the performance of the work to the Department of Industrial Relations, in accordance with Section 1773.3 of the Labor Code.

(B) Certified to the local agency that a skilled and trained workforce will be used to perform all construction work on the development.

(i) For purposes of this section, “skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(ii) If the developer has certified that a skilled and trained workforce will be used to construct all work on development and the application is approved, the following shall apply:

(I) The developer shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to construct the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to construct the development.

(III) Except as provided in subclause (IV), the developer shall provide to the local agency, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the local government pursuant to this subclause shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection. A developer that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(iii) Notwithstanding subclause (II) of clause (ii), a contractor or subcontractor shall not be in violation of the apprenticeship graduation requirements of subdivision (d) of Section 2601 of the Public Contract Code to the extent that all of the following requirements are satisfied:

(I) All contractors and subcontractors performing work on the development are subject to a project labor agreement that includes the local building and construction trades council as a party, that requires compliance with the apprenticeship graduation requirements, and that provides for enforcement of that obligation through an arbitration procedure.

(II) The project labor agreement requires the contractor or subcontractor to request the dispatch of workers for the project through a hiring hall or referral procedure.

(III) The contractor or subcontractor is unable to obtain sufficient workers to meet the apprenticeship graduation percentage requirement within 48 hours of its request, Saturdays, Sundays, and holidays excepted.

(9) Notwithstanding subparagraph (B) of paragraph (8), a contract or subcontract may be awarded without a requirement for the use of a skilled and trained workforce to the extent that all of the following requirements are satisfied:

(A) At least seven days before issuing any invitation to prequalify or bid solicitation for the project, the developer sends a notice of the invitation or solicitation that describes the project to the following entities within the jurisdiction of the proposed project site:

(i) Any bona fide labor organization representing workers in the building and construction trades who may perform work necessary to complete the project.

(ii) Any organization representing contractors that may perform work necessary to complete the project.

(B) The developer seeks bids containing an enforceable commitment that all contractors and subcontractors at every tier will use a skilled and trained workforce to perform work on the project that falls within an apprenticeable occupation in the building and construction trades.

(C) For the purpose of establishing a bidder pool of eligible contractors and subcontractors, the developer establishes a process to prequalify prime contractors and subcontractors that agree to meet skilled and trained workforce requirements.

(D) The bidding process for the project includes, but is not limited to, all of the following requirements:

(i) The prime contractor shall be required to list all subcontractors that will perform work in an amount in excess of one-half of 1 percent of the prime contractor's total bid.

(ii) The developer shall only accept bids from prime contractors that have been prequalified.

(iii) If the developer receives at least two bids from prequalified prime contractors, a skilled and trained workforce must be used by all contractors and subcontractors, except as provided in clause (vi).

(iv) If the developer receives fewer than two bids from prequalified prime contractors, the contract may be rebid and awarded without the skilled and trained workforce requirement applying to the prime contractor's scope of work.

(v) Prime contractors shall request bids from subcontractors on the prequalified list and shall only accept bids and list subcontractors from the prequalified list. If the prime contractor receives bids from at least two subcontractors in each tier listed on the prequalified list, the prime contractor shall require that the contract for that tier or scope of work will require a skilled and trained workforce.

(vi) If the prime contractor fails to receive at least two bids from subcontractors listed on the prequalified list in any tier, the prime contractor may rebid that scope of work. The prime contractor need not require that a skilled and trained workforce be used for that scope of work and may list subcontractors for that scope of work that do not appear on the prequalified list.

(E) The developer shall establish minimum requirements for prequalification of prime contractors and subcontractors that are, to the maximum extent possible, quantifiable and objective. Only criterion, and minimum thresholds for any criterion, that are reasonably necessary to ensure that any bidder awarded a project can successfully complete the proposed scope shall be used by the developer. The developer shall not impose any obstacles to prequalification that go beyond what is commercially reasonable and customary.

(F) The developer shall, within 24 hours of a request by a labor organization that represents workers in the geographic area of the project, provide all of the following information to the labor organization:

(i) The names and Contractors State License Board numbers of the prime contractors and subcontractors that have prequalified.

(ii) The names and Contractors State License Board numbers of the prime contractors that have submitted bids and their respective listed subcontractors.

(iii) The names and Contractors State License Board numbers of the prime contractor that was awarded the work and its listed subcontractors.

(G) An interested party, including a labor organization that represents workers in the geographic area of the project, may bring an action for injunctive relief against a developer or prime contractor that is proceeding with a project in violation of the bidding requirements of this paragraph applicable to developers and prime contractors. The court in such an action may issue injunctive relief to halt work on the project and to require compliance with the requirements of this subdivision. The prevailing plaintiff in such an action shall be entitled to recover its reasonable attorney's fees and costs.

(c) (1) The development proponent shall provide written notice of the pending application to each commercial tenant on the parcel when the application is submitted.

(2) The development proponent shall provide relocation assistance to each eligible commercial tenant located on the site as follows:

(A) For a commercial tenant operating on the site for at least one year but less than five years, the relocation assistance shall be equivalent to six months' rent.

(B) For a commercial tenant operating on the site for at least 5 years but less than 10 years, the relocation assistance shall be equivalent to nine months' rent.

(C) For a commercial tenant operating on the site for at least 10 years but less than 15 years, the relocation assistance shall be equivalent to 12 months' rent.

(D) For a commercial tenant operating on the site for at least 15 years but less than 20 years, the relocation assistance shall be equivalent to 15 months' rent.

(E) For a commercial tenant operating on the site for at least 20 years, the relocation assistance shall be equivalent to 18 months' rent.

(3) The relocation assistance shall be provided to an eligible commercial tenant upon expiration of the lease of that commercial tenant.

(4) For purposes of this subdivision, a commercial tenant is eligible for relocation assistance if the commercial tenant meets all of the following criteria:

(A) The commercial tenant is an independently owned and operated business with its principal office located in the county in which the property on the site that is leased by the commercial tenant is located.

(B) The commercial tenant's lease expired and was not renewed by the property owner.

(C) The commercial tenant's lease expired within the three years following the development proponent's submission of the application for a housing development pursuant to this article.

(D) The commercial tenant employs 20 or fewer employees and has an annual average gross receipts under one million dollars ($1,000,000) for the three taxable year period ending with the taxable year that precedes the expiration of their lease.

(E) The commercial tenant is still in operation on the site at the time of the expiration of its lease.

(5) Notwithstanding paragraph (4), for purposes of this subdivision, a commercial tenant is ineligible for relocation assistance if the commercial tenant meets both of the following criteria:

(A) The commercial tenant entered into a lease on the site after the development proponent's submission of the application for a housing development pursuant to this article.

(B) The commercial tenant had not previously entered into a lease on the site.

(6) (A) The commercial tenant shall utilize the funds provided by the development proponent to relocate the business or for costs of a new business.

(B) Notwithstanding paragraph (2), if the commercial tenant elects not to use the funds provided as required by subparagraph (A), the development proponent shall provide only assistance equal to three months' rent, regardless of the duration of the commercial tenant's lease.

(7) For purposes of this subdivision, monthly rent is equal to one-twelfth of the total amount of rent paid by the commercial tenant in the last 12 months.

(d) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(e) (1) A local agency may exempt a parcel from this section if the local agency makes written findings supported by substantial evidence of either of the following:

(A) The local agency concurrently reallocated the lost residential density to other lots so that there is no net loss in residential density in the jurisdiction.

(B) The lost residential density from each exempted parcel can be accommodated on a site or sites allowing residential densities at or above those specified in paragraph (2) of subdivision (b) and in excess of the acreage required to

accommodate the local agency's share of housing for lower income households.

(2) A local agency may reallocate the residential density from an exempt parcel pursuant to this subdivision only if all of the following requirements are met:

(A) The exempt parcel or parcels are subject to an ordinance that allows for residential development by right.

(B) The site or sites chosen by the local agency to which the residential density is reallocated meet both of the following requirements:

(i) The site or sites are suitable for residential development at densities specified in paragraph (1) of subdivision (b) of Section 65852.24. For purposes of this clause, "site or sites suitable for residential development" shall have the same meaning as "land suitable for residential development," as defined in Section 65583.2.

(ii) The site or sites are subject to an ordinance that allows for development by right.

(f) (1) This section does not alter or lessen the applicability of any housing, environmental, or labor law applicable to a housing development authorized by this section, including, but not limited to, the following:

(A) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(B) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) The Housing Accountability Act (Section 65589.5).

(D) The Density Bonus Law (Section 65915).

(E) Obligations to affirmatively further fair housing, pursuant to Section 8899.50.

(F) State or local affordable housing laws.

(G) State or local tenant protection laws.

(2) All local demolition ordinances shall apply to a project developed pursuant to this section.

(3) For purposes of the Housing Accountability Act (Section 65589.5), a proposed housing development project that is consistent with the provisions of subdivision (b) shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(4) Notwithstanding any other provision of this section, for purposes of the Density Bonus Law (Section 65915), an applicant for a housing development under this section may apply for a density bonus pursuant to Section 65915.

(g) Notwithstanding Section 65913.4, a project subject to this section shall not be eligible for streamlining pursuant to Section 65913.4 if it meets either of the following conditions:

(1) The site has previously been developed pursuant to Section 65913.4 with a project of 10 units or fewer.

(2) The developer of the project or any person acting in concert with the developer has previously proposed a project pursuant to Section 65913.4 of 10 units or fewer on the same or an adjacent site.

(h) A local agency may adopt an ordinance to implement the provisions of this article. An ordinance adopted to implement this section shall not be considered a "project" under Division 13 (commencing with Section 21000) of the Public Resources Code.

(i) Each local agency shall include the number of sites developed and the number of units constructed pursuant to this section in its annual progress report required pursuant to paragraph (2) of subdivision (a) of Section 65400.

(j) The department shall undertake at least two studies of the outcomes of this chapter. One study shall be completed on or before January 1, 2027, and one shall be completed on or before January 1, 2031.

(1) The studies required by this subdivision shall include, but not be limited to, the number of projects built, the number of units built, the jurisdictional and regional location of the housing, the relative wealth and access to resources of the communities in which they are built, the level of affordability, the effect on greenhouse gas emissions, and the creation of construction jobs that pay the prevailing wage.

(2) The department shall publish a report of the findings of a study required by this subdivision, post the report on its internet website, and submit the report to the Legislature pursuant to Section 9795.

(k) For purposes of this section:

(1) “Housing development project” means a project consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential retail commercial or office uses, and at least 50 percent of the square footage of the new construction associated with the project is designated for residential use. None of the square footage of any such development shall be designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel.

(2) “Local agency” means a city, including a charter city, county, or a city and county.

(3) “Office or retail commercial zone” means any commercial zone, except for zones where office uses and retail uses are not permitted, or are permitted only as an accessory use.

(4) “Residential hotel” has the same meaning as defined in Section 50519 of the Health and Safety Code.

(l) The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(m) (1) This section shall become operative on July 1, 2023.

(2) This section shall remain in effect only until January 1, 2033, and as of that date is repealed.

SEC. 2. Section 65912.101 of the Government Code is amended to read:

65912.101. For purposes of this chapter:

(a) “Base units” has the same meaning as “total units” as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915.

(b) “Commercial corridor” means a street that is not a freeway and that has a right-of-way of at least 70 and not greater than 150 feet.

(c) “Development proponent” means a developer who submits a housing development project application to a local government under the streamlined, ministerial review process pursuant to this chapter.

(d) “Extremely low income households” has the same meaning as defined in Section 50106 of the Health and Safety Code.

(e) “Freeway” has the same meaning as defined in Section 332 of the Vehicle Code, except it does not include the portion of a freeway that is an on ramp or off ramp that serves as a connector between the freeway and other roadways that are not freeways.

(f) “Health care expenditures” include contributions under Sections 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward “medical care” as defined under Section 213(d)(1) of the Internal Revenue Code.

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

(h) “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, warehousing uses, and any other use that is a source that is subject to permitting by a district, as defined in Section 39025 of the Health and Safety Code, pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.). “Industrial use” does not include any of the following:

(1) Power substations or utility conveyances such as power lines, broadband wires, and pipes.

(2) A use where the only source permitted by a district is an emergency backup generator.

(3) Self-storage for the residents of a building.

(i) “Local affordable housing requirement” means either of the following:

(1) A local government requirement, as a condition of development of residential units, that a housing development project include a certain percentage of units affordable to, and occupied by, extremely low, very low, lower, or moderate-income households as a condition of development of residential units.

(2) A local government requirement allowing a housing development project to be a use by right if the project includes a certain percentage of units affordable to, and occupied by, extremely low, very low, lower, or moderate-income households as a condition of development of residential units.

(j) “Local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(k) “Lower income households” has the same meaning as defined in Section 50079.5 of the Health and Safety Code.

(l) “Major transit stop” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(m) “Minimum efficiency reporting value” or “MERV” means the measurement scale developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers used to report the effectiveness of air filters.

(n) “Moderate-income households” means households of persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

(o) “Multifamily” means a property with five or more housing units for sale or for rent.

(p) “Neighborhood plan” means a specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3, an area plan, precise plan, community plan, urban village plan, or master plan. To qualify as a neighborhood plan, the plan must have been adopted by a local government before January 1, 2024, and within 25 years of the date that a development proponent submits an application pursuant to this chapter. A neighborhood plan does not include a community plan or plans where the cumulative area covered by the community plans in the jurisdiction is more than one-half of the area of the jurisdiction.

(q) “Principally permitted use” means a use that, as of January 1, 2023, or thereafter, may occupy more than one-third of the square footage of designated use on the site and does not require a conditional use permit, except that parking uses are considered principally permitted whether or not they require a conditional use permit.

(r) “Regional mall” means a site that meets all of the following criteria on the date that a development proponent submits an application pursuant to this chapter:

(1) The permitted uses on the site include at least 250,000 square feet of retail use.

(2) At least two-thirds of the permitted uses on the site are retail uses.

(3) At least two of the permitted retail uses on the site are at least 10,000 square feet.

(s) “Street” has the same meaning as defined in Section 590 of the Vehicle Code, and includes sidewalks, as defined in Section 555 of the Vehicle Code.

(t) “Urban uses” means any current or former residential, commercial, public institutional, public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, or retail use, or any combination of those uses.

(u) “Use by right” means a development project for which both of the following are true:

(1) The development project is not subject to a conditional use permit, planned unit development permit, or any other discretionary local government approval, permit, or review process.

(2) No aspect of the development project, including any permits required for the development project, is a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(v) “Very low income households” has the same meaning as defined in Section 50105 of the Health and Safety Code.

(w) “Very low vehicle travel area” has the same meaning as defined in subdivision (h) of Section 65589.5.

SEC. 3. Section 65912.106 is added to the Government Code, to read:

65912.106. If a housing development project application is submitted on or before December 31, 2024, the provisions of this article as applicable on December 31, 2024, shall apply unless the development proponent chooses to be subject to any of the provisions of this article as applicable on January 1, 2025.

SEC. 4. Section 65912.111 of the Government Code is amended to read:

65912.111. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development is proposed to be located on a site that satisfies all of the following criteria:

(a) It is located in a zone where office, retail, or parking are a principally permitted use.

(b) It is a legal parcel or parcels that meet either of the following:

(1) It is within a city where the city boundaries include some portion of an urbanized area, as designated by the United States Census Bureau.

(2) It is in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area, as designated by the United States Census Bureau.

(c) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For purposes of this subdivision, parcels that are only separated by a street, pedestrian path, or bicycle path shall be considered to be adjoined.

(d) (1) It is not on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use.

(2) For purposes of this subdivision, parcels only separated by a street shall be considered to be adjoined.

(3) For purposes of this subdivision, “dedicated to industrial use” means any of the following:

(A) The square footage is currently being used as an industrial use.

(B) The most recently permitted use of the square footage is an industrial use, and the site has been occupied within the past three years.

(C) The site was designated for industrial use in the latest version of a local government’s general plan adopted before January 1, 2022, and residential uses are not principally permitted on the site.

(e) It satisfies the requirements specified in paragraph (6) of subdivision (a) of Section 65913.4, exclusive of clause (iv) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 65913.4.

(f) The development is not located on a site where either of the following apply:

(1) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(2) The existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(g) For a site within a neighborhood plan area, the neighborhood plan applicable to the site permitted multifamily housing development on the site.

(h) For a vacant site, the site satisfies both of the following:

(1) It does not contain tribal cultural resources, as defined by Section 21074 of the Public Resources Code, that could be affected by the development that were found pursuant to a consultation as described by Section 21080.3.1 of the Public Resources Code and the effects of which cannot be mitigated pursuant to the process described in Section 21080.3.2 of the Public Resources Code.

(2) It is not within a very high fire hazard severity zone, as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code or as designated pursuant to subdivisions (a) and (b) of Section 51179.

SEC. 5. Section 65912.112 of the Government Code is amended to read:

65912.112. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the new units created by the development project meet all of the following affordability criteria:

(a) One hundred percent of the units within the development project, excluding managers’ units, shall be dedicated to lower income households at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.

(b) The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

SEC. 6. Section 65912.113 of the Government Code is amended to read:

65912.113. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development proposal meets all of the following objective development standards:

(a) The development shall be a multifamily housing development project.

(b) The residential density for the development will meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in paragraph (3) of subdivision (c) of Section 65583.2.

(c) For any housing on the site located within 500 feet of a freeway, all of the following shall apply:

(1) The building shall have a centralized heating, ventilation, and air-conditioning system.

(2) The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.

(3) The building shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value of 16.

(4) The air filtration media shall be replaced at the manufacturer's designated interval.

(5) The building shall not have any balconies facing the freeway.

(d) None of the housing is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

(e) The development will meet the following objective zoning standards, objective subdivision standards, and objective design review standards:

(1) The applicable objective standards shall be those for the zone that allows residential use at a greater density between the following:

(A) The existing zoning designation for the parcel if existing zoning allows multifamily residential use.

(B) The zoning designation for the closest parcel that allows residential use at a density proposed by the project.

(2) The applicable objective standards shall be those in effect at the time that the development application is submitted to the local government pursuant to this article.

(f) For any project that is the conversion of the use of an existing nonresidential use building to residential use, the local government shall not require the provision of common open space beyond what is already existing on the project site.

(g) For purposes of this section, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(1) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(2) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this section if the development is consistent with the standards set forth in the general plan.

SEC. 7. Section 65912.114 of the Government Code is amended to read:

65912.114. (a) (1) A local government shall determine, in writing, whether a development submitted pursuant to this article is consistent or inconsistent with the objective planning standards specified in this article within the following timeframes:

(A) Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units.

(C) Within 30 days of submittal of any development proposal that was resubmitted to address written feedback provided by the local government pursuant to paragraph (2).

(2) (A) If a local government determines that a development submitted pursuant to this article is in conflict with any of the objective planning standards specified in this article, it shall provide the development proponent, in writing, with an exhaustive list of the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the timeframes specified in paragraph (1).

(B) In any subsequent review of the application determined to be in conflict with the objective planning standards specified in this article, the local government shall not request the development proponent to provide any new information that was not stated in the initial list of items that were determined to be in conflict.

(3) Once the local government determines that a development submitted pursuant to this article is consistent with the objective planning standards specified in this article, it shall approve the development within the following timeframes:

(A) Within 60 days of the date that the development is determined to be consistent with the objective planning standards specified in this article, if the development contains 150 or fewer housing units.

(B) Within 90 days of the date that the development is determined to be consistent with the objective planning standards specified in this article, if the development contains more than 150 housing units.

(4) If the local government fails to provide the required documentation pursuant to paragraph (2), the development shall be deemed to satisfy the required objective planning standards.

(b) (1) For purposes of this section, a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(2) For purposes of this section, a development is not in conflict with the objective planning standards solely on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(c) The determination of whether a proposed project submitted pursuant to this section is or is not in conflict with the objective planning standards is not a “project” as defined in Section 21065 of the Public Resources Code.

(d) Design review of the development may be conducted by the local government’s planning commission or any equivalent board or commission responsible for design review. That design review shall be objective and be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government, and shall be broadly applicable to developments within the jurisdiction. That design review shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section.

(e) If a development is located within an area of the coastal zone that is not excluded under clause (i), (ii), (iii), or (v) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 65913.4, the development shall require a coastal development permit pursuant to Chapter 7 (commencing with Section 30600) of Division 20 of the Public Resources Code. A public agency with coastal development permitting authority shall approve a coastal development permit if it determines that the development is consistent with all objective standards of the local government’s certified local coastal program or, for areas that are not subject to a fully certified local coastal program, the certified land use plan of that area.

(f) (1) A development proposed pursuant to this article shall be eligible for a density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios pursuant to Section 65915.

(2) The utilization by a development proponent of incentives, concessions, and waivers or reductions of development standards allowed pursuant to Section 65915 shall not cause the project to be subject to a local discretionary government review process, or be considered a “project” under Division 13 (commencing with Section 21000) of the Public Resources Code, even if that incentive, concession, or waiver or reduction of development standards is not specified in a local ordinance.

(3) For purposes of this section, receipt of any density bonus, concession, incentive, waiver or reduction of development standards, and parking ratios to which the applicant is entitled under Section 65915 shall not constitute a basis to find the project inconsistent with the local coastal program.

(g) If a development proposed pursuant to this article demolishes or changes an existing use, the amount of a fee, as defined in Section 66000, imposed on the development shall be offset to account for the demolition or change so that the amount of the fee is attributable only to the development’s incremental impact on public facilities or services. For purposes of this subdivision, an

offset amount that exceeds the fee amount shall not be refundable or used to offset any other fee. This subdivision does not supersede or in any way alter or lessen the effect of the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 7.5 (commencing with Section 66015), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)). For the purpose of this subdivision, “changes an existing use” means no demolition is proposed, but a current office, commercial, or similar use changes to residential use.

(h) The local government shall ensure that the project satisfies the requirements specified in Article 2 (commencing with Section 66300.5) of Chapter 12, regardless of whether the development is within or not within an affected city or within or not within an affected county.

(i) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(j) A local government may, by ordinance adopted to implement this article, exempt a parcel from this section before a development proponent submits a development application on a parcel pursuant to this article if the local government makes written findings establishing all of the following:

(1) The local government has identified one or more parcels that meet the criteria described in subdivisions (b) through (f) of Section 65912.111.

(2) (A) If a parcel identified in paragraph (1) would not otherwise be eligible for development pursuant to this chapter, the implementing ordinance authorizes the parcel to be developed pursuant to the requirements of this chapter. A parcel reclassified for development pursuant to this subparagraph shall be suitable for residential development. For purposes of this subparagraph, a parcel suitable for residential development shall have the same meaning as “land suitable for residential development,” as defined in Section 65583.2.

(B) If a parcel identified in paragraph (1) would otherwise be eligible for development pursuant to this chapter, the implementing ordinance authorizes the parcel to be developed ministerially at residential densities above the residential density required in subdivision (b) of Section 65912.113.

(3) The substitution of the parcel or parcels identified in this subdivision for parcels reclassified pursuant to paragraph (2) will result in all of the following:

(A) No net loss of the total potential residential capacity in the jurisdiction relative to the total capacity that existed in the jurisdiction through the combined effect of this chapter and local law as of the date of the adoption of the ordinance. In making the no net loss calculation specified by this subparagraph, the local government need only factor in the parcels substituted and reclassified pursuant to this subdivision.

(B) No net loss of the total potential residential capacity of housing affordable to lower income households in the jurisdiction relative to the total capacity that existed in the jurisdiction through the combined effect of this chapter and local law as of the date of the adoption of the ordinance. In making the no net loss calculation specified by this subparagraph, the local government need only factor in the parcels substituted and reclassified pursuant to this subdivision.

(C) Affirmative furthering of fair housing.

(4) A parcel or parcels reclassified for development pursuant to subparagraph (A) of paragraph (2) shall be eligible for development pursuant to this chapter notwithstanding any contrary provision of the local government’s charter, general plan, or ordinances, and a parcel or parcels reclassified for development pursuant to subparagraph (B) of paragraph (2) shall be developed ministerially at the densities and heights specified in the ordinance notwithstanding any contrary provision of the local government’s charter, general plan, or ordinances.

(5) The local government has completed all of the rezonings required pursuant to subdivision (c) of Section 65583 for the sixth revision of its housing element.

(6) The local government has designated on its zoning maps which parcels have been exempted from this chapter and which parcels have been reclassified for development pursuant to this chapter. This information shall be made publicly available through the local government’s internet website.

(k) (1) The local government shall, as a condition of approval of the development, require the development proponent to complete a phase I environmental assessment, as defined in Section 78090 of the Health and Safety Code.

(2) If a recognized environmental condition is found, the development proponent shall undertake a preliminary endangerment assessment, as defined in Section 78095 of the Health and Safety Code, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, before the local government issues a certificate of occupancy, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, before the local government issues a certificate of occupancy, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(l) A local government's approval of a development pursuant to this section shall, notwithstanding any other law, be subject to the expiration timeframes specified in subdivision (g) of Section 65913.4.

(m) Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to subdivision (h) of Section 65913.4.

(n) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this section.

(o) A local government shall issue a subsequent permit required for a development approved under this section pursuant to paragraph (2) of subdivision (i) of Section 65913.4.

(p) A public improvement that is necessary to implement a development that is approved pursuant to this section shall be undertaken pursuant to paragraph (3) of subdivision (i) of Section 65913.4.

(q) A local government may adopt an ordinance to implement the provisions of this article. An ordinance adopted to implement this section shall not be considered a "project" under Division 13 (commencing with Section 21000) of the Public Resources Code.

(r) Section 65589.5 applies to a development proceeding pursuant to this article.

SEC. 8. Section 65912.121 of the Government Code is amended to read:

65912.121. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.124 unless the development project is on a site that satisfies all of the following criteria:

(a) It is located within a zone where office, retail, or parking are principally permitted use.

(b) It is located on a legal parcel, or parcels, that meet either of the following:

(1) It is within a city where the city boundaries include some portion of an urbanized area, as designated by the United States Census Bureau.

(2) It is in an unincorporated area, and the legal parcel, or parcels, are wholly within the boundaries of an urbanized area, as designated by the United States Census Bureau.

(c) The project site abuts a commercial corridor and has a frontage along the commercial corridor of a minimum of 50 feet.

(d) The site is not greater than 20 acres, unless the site is a regional mall, in which case the site is not greater than 100 acres.

(e) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For purposes of this subdivision, parcels that are only separated by a street, pedestrian path, or bicycle path shall be considered to be adjoined.

(f) (1) It is not on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use.

(2) For purposes of this subdivision, parcels only separated by a street shall be considered to be adjoined.

(3) For purposes of this subdivision, "dedicated to industrial use" means any of the following:

(A) The square footage is currently being used as an industrial use.

(B) The most recently permitted use of the square footage is an industrial use, and the site has been occupied within the past three years.

(C) The site was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022, and residential uses are not principally permitted on the site.

(g) It satisfies the requirements specified in paragraph (6) of subdivision (a) of Section 65913.4, exclusive of clause (iv) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 65913.4.

(h) The development is not located on a site where any of the following apply:

(1) The development would require the demolition of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by tenants within the past 10 years, excluding any manager's units.

(2) The site was previously used for permanent housing that was occupied by tenants, excluding any manager's units, that was demolished within 10 years before the development proponent submits an application under this article.

(3) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(4) The property contains one to four dwelling units.

(5) The property is vacant and zoned for housing but not for multifamily residential use.

(6) The existing parcel of land or site is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(i) For a site within a neighborhood plan area, the neighborhood plan applicable to the site permitted multifamily housing development on the site.

(j) For a vacant site, the site satisfies both of the following:

(1) It does not contain tribal cultural resources, as defined by Section 21074 of the Public Resources Code, that could be affected by the development that were found pursuant to a consultation as described by Section 21080.3.1 of the Public Resources Code and the effects of which cannot be mitigated pursuant to the process described in Section 21080.3.2 of the Public Resources Code.

(2) It is not within a very high fire hazard severity zone, as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code or as designated pursuant to subdivisions (a) and (b) of Section 51179.

SEC. 9. Section 65912.122 of the Government Code is amended to read:

65912.122. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.124 unless the new housing units created by the development project meet all of the following affordability criteria:

(a) (1) A rental housing development shall include either of the following:

(A) Eight percent of the base units for very low income households and 5 percent of the units for extremely low income households.

(B) Fifteen percent of the base units for lower income households.

(2) The development proponent shall agree to, and the local government shall ensure, the continued affordability of all affordable rental units included pursuant to this subdivision for 55 years. Rents shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(b) (1) An owner-occupied housing development shall include either of the following:

(A) Thirty percent of the base units must be offered at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to moderate-income households.

(B) Fifteen percent of the base units must be offered at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to lower income households.

(2) The development proponent shall agree to, and the local government shall ensure, the continued affordability of all affordable ownership units for a period of 45 years.

(c) If the local government has a local affordable housing requirement, the housing development project shall comply with all of the following:

(1) The development project shall include the percentage of affordable units required by this section or the local requirement, whichever is higher.

(2) The development project shall meet the affordability level of a local affordable housing requirement if it is a deeper affordability level than required by this section.

(3) If the local affordable housing requirement requires greater than 15 percent of the units to be dedicated for lower income households and does not require the inclusion of units affordable to very low and extremely low income households, then the rental housing development shall do both of the following:

(A) Include 8 percent of the units for very low income households and 5 percent of the units for extremely low income households.

(B) Fifteen percent of units affordable to lower income households shall be subtracted from the percentage of units required by the local policy at the highest required affordability level.

(d) Affordable units in the development project shall have the same bedroom and bathroom count ratio as the market rate units, be equitably distributed within the project, and have the same type or quality of appliances, fixtures, and finishes.

SEC. 10. Section 65912.123 of the Government Code is amended to read:

65912.123. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.124 unless the development project meets all of the following objective development standards:

(a) The development shall be a multifamily housing development project.

(b) The residential density for the development, prior to the award of any eligible density bonus pursuant to Section 65915, shall be determined as follows:

(1) In a metropolitan jurisdiction, as determined pursuant to subdivisions (d) and (e) of Section 65583.2, the allowable residential density for the development shall be the greater of the following:

(A) The maximum allowable residential density, as defined in paragraph (6) of subdivision (o) of Section 65915, allowed on the parcel by the local government.

(B) For sites of less than one acre in size, 30 units per acre.

(C) For sites of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 40 units per acre.

(D) For sites of one acre in size or greater located on a commercial corridor of 100 feet in width or greater, 60 units per acre.

(E) Notwithstanding subparagraph (B), (C), or (D), for sites within a very low vehicle travel area or within one-half mile of a major transit stop, 80 units per acre.

(2) In a jurisdiction that is not a metropolitan jurisdiction, as determined pursuant to subdivisions (d) and (e) of Section 65583.2, the allowable residential density for the development shall be the greater of the following:

(A) The maximum allowable residential density, as defined in paragraph (6) of subdivision (o) of Section 65915, allowed on the parcel by the local government.

(B) For sites of less than one acre in size, 20 units per acre.

(C) For sites of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 30 units per acre.

(D) For sites of one acre in size or greater located on a commercial corridor of 100 feet in width or greater, 50 units per acre.

(E) Notwithstanding subparagraph (B), (C), or (D), for sites within a very low vehicle travel area or within one-half mile of a major transit stop, 70 units per acre.

(3) (A) For a housing development project application that has been determined to be consistent with the objective planning standards specified in this article, pursuant to subdivision (a) of Section 65912.124, before January 1, 2027, the development project shall be developed at a density as follows:

(i) Except as provided in clause (ii), 50 percent or greater of the applicable allowable residential density contained in subparagraphs (B) to (E), inclusive, of paragraph (1) or subparagraphs (B) to (E), inclusive, of paragraph (2), as applicable.

(ii) For a site within one-half mile of an existing passenger rail or bus rapid transit station, 75 percent or greater of the applicable allowable residential density contained in subparagraphs (B) to (E), inclusive, of paragraph (1) or subparagraphs (B) to (E), inclusive, of paragraph (2), as applicable.

(B) For a housing development project application that has been determined to be consistent with the objective planning standards specified in this article, pursuant to subdivision (a) of Section 65912.124, on or after January 1, 2027, the development project shall be developed at a density that is 75 percent or greater of the applicable allowable residential density contained in subparagraphs (B) to (E), inclusive, of paragraph (1) or subparagraphs (B) to (E), inclusive, of paragraph (2), as applicable.

(4) Notwithstanding paragraphs (1) and (2), a development project shall not be subject to any density limitation if the development project is a conversion of existing buildings into residential use, unless the development project includes additional new square footage that is more than 20 percent of the overall square footage of the project.

(c) The height limit applicable to the housing development shall be the greater of the following:

(1) The height allowed on the parcel by the local government.

(2) For sites on a commercial corridor of less than 100 feet in width, 35 feet.

(3) For sites on a commercial corridor of 100 feet in width or greater, 45 feet.

(4) Notwithstanding paragraphs (2) and (3), 65 feet for sites that meet all of the following criteria:

(A) They are within one-half mile of a major transit stop.

(B) They are within a city with a population of greater than 100,000.

(C) They are not within a coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(d) The property meets the following standards:

(1) For the portion of the property that fronts a commercial corridor, the following shall occur:

(A) No setbacks shall be required.

(B) All parking must be set back at least 25 feet.

(C) On the ground floor, a building or buildings must abut within 10 feet of the street for at least 80 percent of the frontage.

(2) For the portion of the property that abuts an adjoining property that also abuts the same commercial corridor as the property, no setbacks are required unless the adjoining property contains a residential use that was constructed prior to the enactment of this chapter, in which case the requirements of subparagraph (A) of paragraph (3) apply.

(3) For the portion of the property line that does not abut or lie within a commercial corridor, or an adjoining property that also abuts the same commercial corridor as the property, the following shall occur:

(A) Along property lines that abut a property that contains a residential use, the following shall occur:

(i) The ground floor of the development project shall be set back at 10 feet. The amount required to be set back may be decreased by the local government.

(ii) Starting with the second floor of the property, each subsequent floor of the development project shall be stepped back in an amount equal to seven feet multiplied by the floor number. For purposes of this paragraph, the ground floor counts as the first floor. The amount required to be stepped back may be decreased by the local government.

(B) Along property lines that abut a property that does not contain a residential use, the development shall be set back 15 feet. The amount required to be stepped back may be decreased by the local government.

(4) For a development project at a regional mall, all of the following requirements apply:

(A) The average size of a block shall not exceed three acres. For purposes of this subparagraph, a “block” means an area fully surrounded by streets, pedestrian paths, or a combination of streets and pedestrian paths that are each at least 40 feet in width.

(B) At least 5 percent of the site shall be dedicated to open space.

(C) For the portion of the property that fronts a street that is newly created by the project and is not a commercial corridor, a building shall abut within 10 feet of the street for at least 60 percent of the frontage.

(e) No parking shall be required, including replacement parking, except that this article shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this article did not apply.

(f) For any housing on the site located within 500 feet of a freeway, all of the following shall apply:

(1) The building shall have a centralized heating, ventilation, and air-conditioning system.

(2) The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.

(3) The building shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value of 16.

(4) The air filtration media shall be replaced at the manufacturer’s designated interval.

(5) The building shall not have any balconies facing the freeway.

(g) None of the housing on the site is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

(h) (1) The development proponent shall provide written notice of the pending application to each commercial tenant on the parcel when the application is submitted.

(2) The development proponent shall provide relocation assistance to each eligible commercial tenant located on the site as follows:

(A) For a commercial tenant operating on the site for at least one year but less than five years, the relocation assistance shall be equivalent to six months’ rent.

(B) For a commercial tenant operating on the site for at least 5 years but less than 10 years, the relocation assistance shall be equivalent to nine months’ rent.

(C) For a commercial tenant operating on the site for at least 10 years but less than 15 years, the relocation assistance shall be equivalent to 12 months’ rent.

(D) For a commercial tenant operating on the site for at least 15 years but less than 20 years, the relocation assistance shall be equivalent to 15 months’ rent.

(E) For a commercial tenant operating on the site for at least 20 years, the relocation assistance shall be equivalent to 18 months’ rent.

(3) The relocation assistance shall be provided to an eligible commercial tenant upon expiration of the lease of that commercial tenant.

(4) For purposes of this subdivision, a commercial tenant is eligible for relocation assistance if the commercial tenant meets all of the following criteria:

(A) The commercial tenant is an independently owned and operated business with its principal office located in the county in which the property on the site that is leased by the commercial tenant is located.

(B) The commercial tenant’s lease expired and was not renewed by the property owner.

(C) The commercial tenant's lease expired within the three years following the development proponent's submission of the application for a housing development pursuant to this article.

(D) The commercial tenant employs 20 or fewer employees and has annual average gross receipts under one million dollars ($1,000,000) for the three-taxable-year period ending with the taxable year that precedes the expiration of their lease.

(E) The commercial tenant is still in operation on the site at the time of the expiration of its lease.

(5) Notwithstanding paragraph (4), for purposes of this subdivision, a commercial tenant is ineligible for relocation assistance if the commercial tenant meets both of the following criteria:

(A) The commercial tenant entered into a lease on the site after the development proponent's submission of the application for a housing development pursuant to this article.

(B) The commercial tenant had not previously entered into a lease on the site.

(6) (A) The commercial tenant shall utilize the funds provided by the development proponent to relocate the business or for costs of a new business.

(B) Notwithstanding paragraph (2), if the commercial tenant elects not to use the funds provided as required by subparagraph (A), the development proponent shall provide only assistance equal to three months' rent, regardless of the duration of the commercial tenant's lease.

(7) For purposes of this subdivision, monthly rent is equal to one-twelfth of the total amount of rent paid by the commercial tenant in the last 12 months.

(i) For any project that is the conversion of an existing building for nonresidential use building to residential use, the local government shall not require the provision of common open space beyond what is required for the existing project site.

(j) Objective zoning standards, objective subdivision standards, and objective design review standards not specified elsewhere in this section, as follows:

(1) The applicable objective standards shall be those for the closest zone in the city, county, or city and county that allows multifamily residential use at the residential density proposed by the project. If no zone exists that allows the residential density proposed by the project, the applicable objective standards shall be those for the zone that allows the greatest density within the city, county, or city and county.

(2) The applicable objective standards shall be those in effect at the time that the development application is submitted to the local government pursuant to this article.

(3) The objective standards shall not preclude a development from being built at the residential density required pursuant to subdivision (b) and shall not require the development to reduce unit size to meet the objective standards.

(4) The applicable objective standards may include a requirement that up to one-half of the ground floor of the housing development project be dedicated to retail use.

(5) For purposes of this section, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances. In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

SEC. 11. Section 65912.124 of the Government Code is amended to read:

65912.124. (a) (1) A local government shall determine, in writing, whether a development submitted pursuant to this article is consistent or is not consistent with the objective planning standards specified in this article within the following timeframes:

(A) Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units.

(C) Within 30 days of submittal of any development proposal that was resubmitted to address written feedback provided by the local government pursuant to this subdivision.

(2) (A) If a local government determines that a development submitted pursuant to this article is in conflict with any of the objective planning standards specified in this article, it shall provide the development proponent, in writing, with an exhaustive list of the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the timeframes specified in paragraph (1).

(B) In any subsequent review of the application determined to be in conflict with the objective planning standards specified in this article, the local government shall not request the development proponent to provide any new information that was not stated in the initial list of items that were determined to be in conflict.

(3) Once the local government determines that a development submitted pursuant to this article is consistent with the objective planning standards specified in this article, it shall approve the development within the following timeframes:

(A) Within 60 days of the date that the development is determined to be consistent with the objective planning standards specified in this article, if the development contains 150 or fewer housing units.

(B) Within 90 days of the date that the development is determined to be consistent with the objective planning standards specified in this article, if the development contains more than 150 housing units.

(4) If the local government fails to provide the required documentation pursuant to paragraph (2), the development shall be deemed to satisfy the required objective planning standards.

(b) (1) For purposes of this section, a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(2) For purposes of this section, a development is not in conflict with the objective planning standards solely on the basis that application materials are not included, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(c) The determination of whether a proposed project submitted pursuant to this section is or is not in conflict with the objective planning standards is not a “project” as defined in Section 21065 of the Public Resources Code.

(d) Design review of the development may be conducted by the local government’s planning commission or any equivalent board or commission responsible for design review. That design review shall be objective and be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government, and shall be broadly applicable to developments within the jurisdiction. That design review shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section.

(e) If a development is located within an area of the coastal zone that is not excluded under clause (i), (ii), (iii), or (v) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 65913.4, the development shall require a coastal development permit pursuant to Chapter 7 (commencing with Section 30600) of Division 20 of the Public Resources Code. A public agency with coastal development permitting authority shall approve a coastal development permit if it determines that the development is consistent with all objective standards of the local government’s certified local coastal program or, for areas that are not subject to a fully certified local coastal program, the certified land use plan of that area.

(f) (1) A housing development proposed pursuant to this article shall be eligible for a density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios pursuant to Section 65915, except that the project shall not use a concession to reduce a local government requirement for the provision of ground floor retail that is consistent with the allowance contained in paragraph (3) of subdivision (j) of Section 65912.123.

(2) A development proponent may use incentives, concessions, and waivers or reductions of development standards allotted pursuant to subdivisions (d) and (e) of Section 65915 to deviate from the objective standards contained in subdivision (c) and paragraphs (2) and (3) of subdivision (d) of Section 65912.123.

(3) The utilization by a development proponent of incentives, concessions, and waivers or reductions of development standards allowed pursuant to Section 65915 shall not cause the project to be subject to a local discretionary government review process,

or be considered a “project” under Division 13 (commencing with Section 21000) of the Public Resources Code, even if that incentive, concession, or waiver or reduction of development standards is not specified in a local ordinance.

(4) For purposes of this section, receipt of any density bonus, concession, incentive, waiver or reduction of development standards, and parking ratios to which the applicant is entitled under Section 65915 shall not constitute a basis to find the project inconsistent with the local coastal program.

(5) Notwithstanding paragraph (6) of subdivision (o) of Section 65915, for purposes of this subdivision, the maximum allowable residential density means the allowable density as determined pursuant to paragraphs (1) and (2) of subdivision (b) of Section 65912.123.

(g) If a development proposed pursuant to this article demolishes or changes an existing use, the amount of a fee, as defined in Section 66000, imposed on the development shall be offset to account for the demolition or change so that the amount of the fee is attributable only to the development’s incremental impact on public facilities or services. For purposes of this subdivision, an offset amount that exceeds the fee amount shall not be refundable or used to offset any other fee. This subdivision does not supersede or in any way alter or lessen the effect of the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 7.5 (commencing with Section 66015), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)). For the purpose of this subdivision, “changes an existing use” means no demolition is proposed, but a current office, commercial, or similar use changes to residential use.

(h) The local government shall ensure that the project satisfies the requirements specified in Article 2 (commencing with Section 66300.5) of Chapter 12, regardless of whether the development is within or not within an affected city or within or not within an affected county.

(i) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(j) A local government may, by ordinance adopted to implement this article, exempt a parcel from this section before a development proponent submits a development application on a parcel pursuant to this article if the local government makes written findings establishing all of the following:

(1) The local government has identified a parcel or parcels that meet the criteria described in subdivisions (b) and (e) to (h), inclusive, of Section 65912.121.

(2) (A) If a parcel identified in paragraph (1) would not otherwise be eligible for development pursuant to this chapter, the implementing ordinance authorizes the parcel to be developed pursuant to the requirements of this chapter. A parcel reclassified for development pursuant to this subparagraph shall be suitable for residential development. For purposes of this subparagraph, a parcel suitable for residential development shall have the same meaning as “land suitable for residential development,” as defined in Section 65583.2.

(B) If a parcel identified in paragraph (1) would otherwise be eligible for development pursuant to this chapter, the implementing ordinance authorizes the parcel to be developed ministerially at residential densities above the residential density required in subdivision (b) of Section 65912.123 and heights required in subdivision (c) of Section 65912.123.

(3) The substitution of the parcel or parcels identified in this subdivision for parcels reclassified pursuant to paragraph (2) will result in all of the following:

(A) No net loss of the total potential residential capacity in the jurisdiction relative to the total capacity that existed in the jurisdiction through the combined effect of local and state law as of the date of the adoption of the ordinance. In making the no net loss calculation specified by this subparagraph, the local government need only factor in the parcels substituted and reclassified pursuant to this subdivision.

(B) No net loss of the total potential residential capacity of housing affordable to lower income households in the jurisdiction relative to the total capacity that existed in the jurisdiction through the combined effect of this chapter and local law as of the date of the adoption of the ordinance. In making the no net loss calculation specified by this subparagraph, the local government need only factor in the parcels substituted and reclassified pursuant to this subdivision.

(C) Affirmative furthering of fair housing.

(4) A parcel or parcels reclassified for development pursuant to subparagraph (A) of paragraph (2) shall be eligible for development pursuant to this chapter notwithstanding any contrary provision of the local government’s charter, general plan, or

ordinances, and a parcel or parcels reclassified for development pursuant to subparagraph (B) of paragraph (2) shall be developed ministerially at the densities and heights specified in the ordinance notwithstanding any contrary provision of the local government's charter, general plan, or ordinances.

(5) The local government has completed all of the rezonings required pursuant to subdivision (c) of Section 65583 for the sixth revision of its housing element.

(6) The local government has designated on its zoning maps which parcels have been exempted from this chapter and which parcels have been reclassified for development pursuant to this chapter. This information must be made publicly available through the local government's internet website.

(k) (1) The local government shall, as a condition of approval of the development, require the development proponent to complete a phase I environmental assessment, as defined in Section 78090 of the Health and Safety Code.

(2) If a recognized environmental condition is found, the development proponent shall undertake a preliminary endangerment assessment, as defined in Section 78095 of the Health and Safety Code, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, before the local government issues a certificate of occupancy, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, before the local government issues a certificate of occupancy, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(l) A local government's approval of a development pursuant to this section shall, notwithstanding any other law, be subject to the expiration timeframes specified in subdivision (g) of Section 65913.4.

(m) Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to subdivision (h) of Section 65913.4.

(n) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this section.

(o) A local government shall issue a subsequent permit required for a development approved under this section pursuant to paragraph (2) of subdivision (i) of Section 65913.4.

(p) A public improvement that is necessary to implement a development that is approved pursuant to this section shall be undertaken pursuant to paragraph (3) of subdivision (i) of Section 65913.4.

(q) A local government may adopt an ordinance to implement the provisions of this article. An ordinance adopted to implement this section shall not be considered a "project" under Division 13 (commencing with Section 21000) of the Public Resources Code.

(r) Section 65589.5 applies to a development proceeding pursuant to this article.

SEC. 12. The Legislature finds and declares that the provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act applies to all cities, including charter cities.

SEC. 13. The amendments adding subdivision (r) to Sections 65912.114 and 65912.124 of the Government Code made by this act do not constitute a change in, but are declaratory of, existing law.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.