A G E N D A

CHINO HILLS LEGISLATIVE ADVOCACY COMMITTEE
MONDAY, JULY 1, 2019

3:00 P.M.

CIVIC CENTER, CITY COUNCIL CONFERENCE ROOM
14000 CITY CENTER DRIVE, CHINO HILLS, CALIFORNIA

This agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda unless the Legislative Advocacy Committee makes a determination that an emergency exists or that a need to take immediate action on the item came to the attention of the City subsequent to the posting of the agenda. The City Clerk has on file copies of written documentation relating to each item of business on this Agenda available for public inspection in the Office of the City Clerk, in the public binder located at the entrance to the Council Chambers, and on the City's website at www.chinohills.org while the meeting is in session. Materials related to an item on this Agenda submitted to the Coommittee after distribution of the agenda packet are available for public inspection in the Office of the City Clerk at 14000 City Center Drive, Chino Hills, CA during normal business hours.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk's Office, (909) 364-2620, at least 48 hours prior to the start of the meeting to enable the City to make reasonable arrangements. Thank you.

Speaker Cards - Those persons wishing to address the Legislative Advocacy Committee on any matter, whether or not it appears on the agenda, are requested to complete and submit to the City Clerk a "Request to Speak" form available at the entrance to the City Council Chambers. In accordance with the Public Records Act, any information you provide on this form is available to the public. You are not required to provide personal information in order to speak, except to the extent necessary for the City Clerk to call upon you. Comments will be limited to three minutes per speaker.

PLEASE SILENCE ALL PAGERS, CELL PHONES AND OTHER ELECTRONIC EQUIPMENT WHILE COUNCIL IS IN SESSION. Thank you.

COMMITTEE MEMBERS

BRIAN JOHSZ
PETER ROGERS

3:00 P.M. - CALL TO ORDER / ROLL CALL

1. PUBLIC COMMENTS: At this time members of the public may address the Legislative Advocacy Committee regarding any items within the subject matter jurisdiction of the Committee, whether or not the item appears on the agenda. Individual audience participation is limited to three minutes per speaker. Please complete and submit a speaker card to the City Staff.

PUBLIC MEETING

2. Approve May 10, 2019, Legislative Advocacy Committee meeting minutes

3. Discuss City's position regarding SB 330 (Skinner) Housing Crisis Act of 2019

4. Discuss City's position regarding SB 13 (Wieckowski) Accessory Dwelling Units

5. Discuss City's position regarding AB 1763 (Chiu) Density Bonus: 100% Affordable Housing

6. Discuss City's position regarding AB 881 (Bloom) Accessory Dwelling Units

7. Discuss City's position regarding AB 68 (Ting) Land Use: Accessory Dwelling Units

ADJOURNMENT:

MINUTES

LEGISLATIVE ADVOCACY COMMITTEE
CITY OF CHINO HILLS
REGULAR MEETING
MAY 10, 2019

The Regular meeting of the Legislative Advocacy Committee was called to order at 8:00 a.m.

PRESENT: COMMITTEE MEMBERS: BRIAN JOHSZ
PETER ROGERS

ABSENT: COMMITTEE MEMBERS: NONE

ALSO PRESENT: BENJAMIN MONTGOMERY, CITY MANAGER
LYNNAE SISEMORE, SECRETARY

PUBLIC COMMENTS
There were no public comments.

MEETING MINUTES
On a motion made by Committee Member Johsz, the Committee with all members present unanimously approved the March 20, 2019, Legislative Advocacy Committee minutes with minor corrections.

AB 675 (RODRIGUEZ) PRISONS: SECURITY ASSESSMENTS
City Manager Montgomery briefed the Committee about AB 678 (Rodriguez) regarding prison security assessments and recommended that the committee support the bill being that security is a major concern of the California Institution for Men and that the facility is less than five miles away from Chino Hills.

Following discussion, the Committee with all members present authorized staff to send a letter to support AB 675 (Rodriguez) Prisons: Security Assessments.

AB 1190 (IRWIN) UNMANNED AIRCRAFT: STATE AND LOCAL REGULATIONS: LIMITATIONS
City Manager Montgomery briefed the Committee about AB 1190 (Irwin) and recommended supporting the bill which would authorize local government agencies to adopt regulations to enforce Federal Aviation Administration (FAA) protocols.

Following discussion, the Committee with all members present authorized staff to send a letter to support AB 1190 (Irwin) Unmanned Aircraft: State and Local Regulations: Limitations.

SB 648 (CHANG) UNMANNED AIRCRAFT SYSTEMS: ACCIDENT NOTIFICATION
City Manager Montgomery briefed the Committee about SB 648 (Chang) requiring a person who flies an unmanned aircraft (also known as drones) to be held accountable for reporting accidents to the nearest National Transportation Safety Board. He recommended supporting the bill.

Following discussion, the Committee with all members present authorized staff to send a letter to support SB 648 (Change) Unmanned Aircraft Systems: Accident Notification.

SB 531 (GLAZER D) LOCAL AGENCIES: RETAILERS
City Manager Montgomery briefed the Committee about SB 531 (Glazer D) prohibiting local agencies from entering into any form of agreement that would result in directly or indirectly collecting revenue from outside their jurisdiction.

Following discussion, the Committee without formal motion and all members present, directed staff to take no action.

ADJOURNMENT:
The meeting was adjourned at 8:25 a.m.

Respectfully submitted,

_____
Lynnae Sisemore
Secretary

LEGISLATIVE ADVOCACY COMMITTEE
AGENDA STAFF REPORT

TO:	COMMITTEE MEMBERS	DATE:	JULY 1, 2019
FROM:	CITY MANAGER	ITEM NO:	3
SUBJECT:	SB 330 (SKINNER) HOUSING CRISIS ACT OF 2019		

RECOMMENDATION:

1. Discuss the City's position regarding SB 330 (Skinner) Housing Crisis Act of 2019; and

2. Direct staff to send a letter opposing SB 330 to the bill's author and take any other related action.

BACKGROUND/ANALYSIS:
SB 330 would declare a statewide housing crisis for a five-year period. In an attempt to address that crisis, SB 330 (Skinner) Housing Crisis Act of 2019 (*as amended 06/25/19*), amends the Housing Accountability Act by restricting cities planning and zoning authority significantly.

Most significant for Chino Hills, SB 330 would nullify the residential housing unit cap in Measure U which was enacted by Chino Hills voters by a three to one margin on November 2, 1999. Measure U requires voter approval to increase the number of residential units allowed by the City's General Plan and Zoning Map and to convert property currently zoned no-residential to residential. SB 330 nullifies caps on residential density.

SB 330 would also impose a limit on the amount of parking spaces the City can require when approving residential developments. SB 330 prevents certain "affected cities" - including Chino Hills - from imposing a parking requirement in excess of 0.5 spaces per housing unit. A parking rate of .5 spaces per unit makes an unrealistic assumption that only half of all households have a car, which is simply not the case in cities like Chino Hills where high frequency transit is not available. This restriction will likely result in more congestion on the streets, more frustrated drivers, more risks to pedestrians and cyclists, more idling cars and reduced quality of life.

The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the application was deemed to be complete, or to approve it on the condition that it be developed at a lower density, to base its decision upon written findings supported by substantial evidence on the record that specified conditions exist, and places the burden of proof on the local agency to that effect. The act requires a court to impose a fine on a local agency under certain circumstances and requires that the fine be at least $10,000 per housing unit in the housing development project on the date the application was deemed complete. This bill contains other related provisions and other existing laws.

This bill would require a new housing application process, limit the number of public hearings on a project and restricts cities' land use authority in a number of other ways.

More information pertaining to this bill is attached. City Staff strongly recommends opposition to this bill and recommends sending a customized letter of opposition to the bill's author. The League of California Cities has also taken an opposition position on this bill.

ENVIRONMENTAL (CEQA) REVIEW:
N/A

FISCAL IMPACT:
Not at this time upon further review.

REVIEWED BY OTHERS:
This item has been reviewed by the Community Development Director and City Attorney.

Respectfully Submitted,

Benjamin Montgomery
City Manager

Recommended By:

Cheryl Balz
City Clerk

Attachments Letter of Opposition
Bill Text

July 1, 2019

The Honorable Nancy Skinner
California State Senate
State Capitol, Room 5094
Sacramento, CA 95814

RE: Oppose SB 330 – Housing Crisis Act of 2019

Dear Senator Skinner,

The City of Chino Hills strongly opposes SB 330 the Housing Crisis Act of 2019. We share your desire to increase housing affordability in California, however, we believe that this bill would hinder our ability to build housing in addition to diminishing the quality of life for our residents.

Chino Hills is a city with an excellent record for building housing within quality neighborhoods. In 2018, Chino Hills was rated by the state Department of Finance as the fastest growing city in California with a population over 30,000, Chino Hills increased the City's housing supply in 2017 by 4.6 percent.[1] In fact, the City has increased its housing supply so much in the last few years that the population grew from 74,796 in 2010 to 84,364 in 2019. SB 330 would create hardships for neighborhoods, windfalls to for-profit developers, and would not achieve its stated goal of providing safe and affordable housing in our communities.

Negative Impacts of Unreasonable Standards
Reasonable parking standards create safe streets for pedestrians, cyclists and motorists. Reduced parking standards in cities like Chino Hills where high frequency transit is not available means more congestion on the streets, more frustrated drivers, more risks to pedestrians and cyclists, more idling cars and reduced quality of life.

A negligible parking rate of .5 spaces per unit makes an unrealistic assumption that only half of all households have a car. Many California cities, and typically the housing-

[1] http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-1/

rich/jobs-poor communities, have minimal or no transit. Under requirements in SB 330, there will be no ability for affected residents get to work, to school or to medical appointments. The reality in cities like Chino Hills is that each household has two, three or even four adults, and each driver typically needs a car. While this approach may work in largely urban areas, it is critical to understand that a one size fits all approach to policy making does not work in California. Communities like Chino Hills will suffer under this requirement, as developers will not be incentivized to build in our community.

At the same time, developer profit will increase as they forego parking in return for higher density. None of these increased profits will increase housing affordability. There is no provision in SB 330 that requires, in exchange for reduced parking requirements, a cap or set aside that would reduce rents or sale prices and provide affordable units.

SB 330 Would Backfire

In 1999, Chino Hills voters, by a landslide 3-to-1 ratio, enacted Measure U. This measure restricts the City's ability to increase residential density but allows for increases necessary to comply with state housing law requirements. Measure U has allowed the City to successfully meet its Regional Housing Needs Assessment (RHNA) requirements and continue to provide new housing opportunities. Even 20 years after its approval, the Chino Hills community strongly supports Measure U. SB 330 would nullify Measure U. Such a nullification would likely produce a community backlash that would make any growth politically poisonous. It would break the "deal" that the Chino Hills residents have with development. The consequential resident resentment could make it much more difficult for developers to build in Chino Hills and may have political ramifications at the State level.

Long Term Negative Impacts

Although SB 330 sets a five-year limit for the bill, its negative effects could damage California communities for years to come. It arbitrarily freezes development and building code standards in hundreds of California cities. For cities without high frequency transit, neighborhood congestion would create unsafe and undesirable residential streets. In short, the quality neighborhoods that make California a desirable place to live and work would diminish.

Unnecessary Legislation:

The one-size fits all approach that SB 330 requires is not the way to ensure safe and affordable housing for existing and future Californians. Many California cities with high frequency transit stops are already planning for high density and reduced parking in these areas. This bill fails to recognize that the greatest obstacles to building housing in California is not the provision of parking or local red tape, but rather the escalating cost of construction, land costs and expanding state CEQA requirements and court battles. While these costs and state requirements have risen, the state has provided few financial incentives to encourage more housing, especially housing for low-income families.

To encourage housing while maintaining neighborhood quality, the better solution is to continue to set housing development goals for each region, enforce penalties for jurisdictions that do not meet their goals, and increase state financial incentives that support affordable housing development. We support your efforts to increase affordable housing options in our State however, SB 330 will have too many negative consequences that will actually limit our ability to increase our housing stock. We look forward to working with you to identify real solutions to support affordable housing development.

Sincerely:

Cynthia Moran
Mayor
City of Chino Hills

cc: Members, Assembly Committee on Local Government Fax: 916.319.3959
Debbie Michel, Chief Consultant, Assembly Committee on Local Government
William Weber, Consultant, Assembly Republican Caucus
Senator Ling Ling Chang Fax: 916.651.4929; 714.671.9750
Assembly Member Phillip Chen Fax: 916.319.2155; 714.529.5548
Laura Morales, League of California Cities Regional Public Affairs Manager, lmorales@cacities.org
Meg Desmond, League of California Cities, cityletters@cacities.org

AMENDED IN ASSEMBLY JUNE 12, 2019

AMENDED IN SENATE MAY 21, 2019

AMENDED IN SENATE MAY 7, 2019

AMENDED IN SENATE APRIL 24, 2019

AMENDED IN SENATE APRIL 4, 2019

AMENDED IN SENATE MARCH 25, 2019

SENATE BILL No. 330

Introduced by Senator Skinner

February 19, 2019

An act to amend Section 65589.5 of, to amend, repeal, and add Sections 65943 and 65950 of, to add and repeal Sections 65905.5, 65913.3, 65913.10, 65941.1, and 65950.2 of, and to add and repeal Chapter 12 (commencing with Section 66300) of Division 1 of Title 7 of, the Government Code, and to add and repeal Section 17980.12 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 330, as amended, Skinner. Housing Crisis Act of 2019.

(1) The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. The act specifies that one way to satisfy that requirement is to make findings that the housing development project or emergency shelter is

inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the application was deemed to be complete, or to approve it on the condition that it be developed at a lower density, to base its decision upon written findings supported by substantial evidence on the record that specified conditions exist, and places the burden of proof on the local agency to that effect. The act requires a court to impose a fine on a local agency under certain circumstances and requires that the fine be at least $10,000 per housing unit in the housing development project on the date the application was deemed complete.

This bill, until January 1, 2025, would specify that an application is deemed complete for these purposes if a preliminary application was submitted, as described below.

Existing law authorizes the applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization to bring an action to enforce the Housing Accountability Act. If, in that action, a court finds that a local agency failed to satisfy the requirement to make the specified findings described above, existing law requires the court to issue an order or judgment compelling compliance with the act within 60 days, as specified.

This bill, until January 1, 2025, would additionally require a court to issue the order or judgment previously described if the local agency required or attempted to require certain housing development projects to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

Existing law authorizes a local agency to require a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, as specified.

This bill, until January 1, 2025, would, notwithstanding those provisions or any other law and with certain exceptions, require that a housing development project only be subject to the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted, except as specified.

(2) The Planning and Zoning Law, except as provided, requires that a public hearing be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications. That law requires that notice of a public hearing be provided in accordance with specified procedures.

This bill, until January 1, 2025, would prohibit a city or county from conducting more than 5 ~~de novo~~ hearings, as defined, held pursuant to these provisions, or any other law, ordinance, or regulation requiring a public hearing, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, as defined. The bill would require the city or county to consider and either approve or disapprove the housing development project at any of the 5 hearings consistent with the applicable timelines under the Permit Streamlining ~~Act and prohibit a city or county from continuing a hearing to another date.~~ *Act.*

(3) The Planning and Zoning Law requires a county or city to designate and zone sufficient vacant land for residential use with appropriate standards, as provided. That law also authorizes a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies certain objective planning standards.

This bill, until January 1, 2025, with respect to land where housing is an allowable use on or after January 1, 2018, would prohibit a county or city in which specified conditions exist, determined by the Department of Housing and Community Development as provided, from imposing any new, increasing or enforcing any existing, requirement that a proposed housing development include parking in excess of specified amounts. If the city or county grants a conditional use permit approving a proposed housing development project and that project would have been eligible for a higher density under the city's or county's general plan land use designation and zoning ordinances as in effect on January 1, 2018, the bill would also require the city or county to allow the project at that higher density. The bill would require a project that requires the demolition of certain types of housing to comply with specified requirements, including the provision of

relocation assistance and a right of first refusal in the new housing to displaced occupants. The bill would require that any units for which a developer provides relocation assistance or a right of first refusal be considered in determining whether the housing development project satisfies the requirements, if applicable, of an inclusionary housing ordinance of the county or city.

The bill would state that these provisions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly.

(4) The Permit Streamlining Act, which is part of the Planning and Zoning Law, requires each state agency and each local agency to compile one or more lists that specify in detail the information that will be required from any applicant for a development project. That law requires the state or local agency to make copies of this information available to all applicants for development projects and to any persons who request the information.

The bill, until January 1, 2025, for purposes of any state or local law, ordinance, or regulation that requires a city or county to determine whether the site of a proposed housing development project is a historic site, would require the city or county to make that determination, which would remain valid for the pendency of the housing development, at the time the application is deemed ~~complete.~~ *complete, except as provided.* The bill, until January 1, 2025, would also require that each local agency make copies of any above-described list with respect to information required from an applicant for a housing development project available both (A) in writing to those persons to whom the agency is required to make information available and (B) publicly available on the internet website of the local agency.

The Permit Streamlining Act requires public agencies to approve or disapprove of a development project within certain timeframes, as specified. The act requires a public agency, upon its determination that an application for a development project is incomplete, to include a list and a thorough description of the specific information needed to complete the application. Existing law authorizes the applicant to submit the additional material to the public agency, requires the public agency to determine whether the submission of the application together with the submitted materials is complete within 30 days of receipt, and

provides for an appeal process from the public agency's determination. Existing law requires a final written determination by the agency on the appeal no later than 60 days after receipt of the applicant's written appeal.

This bill, until January 1, 2025, would provide that a housing development project, as defined, shall be deemed to have submitted a preliminary application upon providing specified information about the proposed project to the city or county from which approval for the project is being ~~sought and~~ *sought. The bill would require each local agency to compile a checklist and application form that applicants for housing development projects may use for that purpose and* would require the Department of Housing and Community Development to adopt a standardized form ~~that applicants for housing development projects may use for that purpose, as specified.~~ *for applicants seeking approval from a local agency that has not developed its own application form.* After the submittal of a preliminary application, the bill would provide that a housing development project would not be deemed to have submitted a complete initial application under these provisions if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20% or more until the development proponent resubmits the information required by the bill so that it reflects the revisions. *The bill would require a development proponent to submit an application for a development project that includes all information necessary for the agency to review the application under the Permit Streamlining Act within 180 days of submitting the preliminary application.*

The bill, until January 1, 2025, would require the lead agency, as defined, if the application is determined to be incomplete, to provide the applicant with an exhaustive list of items that were not complete, as specified.

The bill, until January 1, 2025, would also provide that all deadlines in the Permit Streamlining Act are mandatory.

The Permit Streamlining Act generally requires that a public agency that is the lead agency for a development project approve or disapprove a project within 120 days from the date of certification by the lead agency of an environmental impact report prepared for certain development projects, but reduces this time period to 90 days from the certification of an environmental impact report for development projects meeting certain additional conditions relating to affordability. Existing law defines "development project" for these purposes to mean a use

consisting of either residential units only or mixed-use developments consisting of residential and nonresidential uses that satisfy certain other requirements.

This bill, until January 1, 2025, would reduce the time period in which a lead agency under these provisions is required to approve or disapprove a project from 120 days to 90 days, for a development project generally described above, and from 90 days to 60 days, for a development project that meets the above-described affordability conditions. The bill would recast the definition of "development project" for these purposes to mean a housing development project, as defined in the Housing Accountability Act.

(5) The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that relates to its planning. That law authorizes the legislative body, if it deems it to be in the public interest, to amend all or part of an adopted general plan, as provided. That law also authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.

This bill, until January 1, 2025, with respect to land where housing is an allowable use on or after January 1, 2018, except as specified, would prohibit a county or city, including the electorate exercising its local initiative or referendum power, in which specified conditions exist, determined by the Department of Housing and Community Development as provided, from enacting a development policy, standard, or condition, as defined, that would have the effect of (A) changing the land use designation or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; (B) imposing or enforcing a moratorium on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C) imposing or enforcing new design standards established on or after January 1, 2018, that are not objective design standards, as defined; or (D) establishing or implementing certain limits on the number of permits issued by, or the population of, the county or city, unless the limit was approved prior to January 1, 2005, in a predominantly agricultural county, as defined.

The bill would, notwithstanding these prohibitions, allow a city or county to prohibit the commercial use of land zoned for residential use consistent with the authority of the city or county conferred by other law. The bill would state that these prohibitions would apply to any zoning ordinance adopted or amended on or after January 1, 2018, and that any development policy, standard, or condition on or after that date that does not comply would be deemed void.

The bill would state that these prohibitions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly. The bill would also declare any requirement to obtain local voter approval or supermajority approval of any body of the county or city for specified purposes related to housing development against public policy and void.

(6) The State Housing Law, among other things, requires the Department of Housing and Community Development to propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission, and to adopt, amend, and repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public, governing hotels, motels, lodging houses, apartment houses, and dwellings, and buildings and structures accessory thereto. That law specifies that the provisions of the State Housing Law and the building standards and rules and regulations adopted pursuant to that law apply in all parts of the state and requires specified entities within each city, county, or city and county to enforce within its jurisdiction those pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. That law authorizes an enforcement agency to institute an appropriate action or proceeding to prevent, restrain, correct, or abate violations of that law, or building standards, rules, or regulations adopted pursuant to that law, after providing 30 days' notice, or a shorter period of time under certain circumstances. A violation of the State Housing Law, or any building standard, rule, or regulation adopted pursuant to that law, is a misdemeanor.

This bill would authorize the owner of an occupied substandard building or unit in a zone where residential use is a permitted use that receives a notice to correct a violation of a building standard under the State Housing Law or abate a nuisance to submit an application to the

enforcement agency requesting that enforcement of the violation or nuisance be delayed for up to 7 years. The bill would ~~require~~ *authorize* the enforcement agency to grant a request to delay enforcement if it determines that correcting the violation or abating the nuisance is not necessary to protect health and safety. The bill would repeal these provisions as of January 1, 2025.

(7) This bill would include findings that the 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.

(8) By imposing various new requirements and duties on local planning officials with respect to housing development, and by changing the scope of a crime under the State Housing Law, this bill would impose a state-mandated local program.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(9) This bill would provide that its provisions are severable.

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

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

SECTION 1. This act shall be known, and may be cited, as the Housing Crisis Act of 2019.

SEC. 2. (a) The Legislature finds and declares the following:

(1) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita.

(2) Consequently, existing housing in this state, especially in its largest cities, has become very expensive. Seven of the 10 most expensive real estate markets in the United States are in California. In San Francisco, the median home price is $1.6 million.

(3) California is also experiencing rapid year-over-year rent growth with three cities in the state having had overall rent growth

of 10 percent or more year-over-year, and of the 50 United States cities with the highest United States rents, 33 are cities in California.

(4) California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years.

(5) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates.

(6) The housing crisis harms families across California and has resulted in all of the following:

(A) Increased poverty and homelessness, especially first-time homelessness.

(B) Forced lower income residents into crowded and unsafe housing in urban areas.

(C) Forced families into lower cost new housing in greenfields at the urban-rural interface with longer commute times and a higher exposure to fire hazard.

(D) Forced public employees, health care providers, teachers, and others, including critical safety personnel, into more affordable housing farther from the communities they serve, which will exacerbate future disaster response challenges in high-cost, high-congestion areas and increase risk to life.

(E) Driven families out of the state or into communities away from good schools and services, making the ZIP Code where one grew up the largest determinate of later access to opportunities and social mobility, disrupting family life, and increasing health problems due to long commutes that may exceed three hours per day.

(7) The housing crisis has been exacerbated by the additional loss of units due to wildfires in 2017 and 2018, which impacts all regions of the state. The Carr Fire in 2017 alone burned over 1,000 homes, and over 50,000 people have been displaced by the Camp Fire and the Woolsey Fire in 2018. This temporary and permanent displacement has placed additional demand on the housing market and has resulted in fewer housing units available for rent by low-income individuals.

(8) Individuals who lose their housing due to fire or the sale of the property cannot find affordable homes or rental units and are pushed into cars and tents.

(9) Costs for construction of new housing continue to increase. According to the Terner Center for Housing Innovation at the University of California, Berkeley, the cost of building a 100-unit affordable housing project in the state was almost $425,000 per unit in 2016, up from $265,000 per unit in 2000.

(10) Lengthy permitting processes and approval times, fees and costs for parking, and other requirements further exacerbate cost of residential construction.

(11) The housing crisis is severely impacting the state's economy as follows:

(A) Employers face increasing difficulty in securing and retaining a workforce.

(B) Schools, universities, nonprofits, and governments have difficulty attracting and retaining teachers, students, and employees, and our schools and critical services are suffering.

(C) According to analysts at McKinsey and Company, the housing crisis is costing California $140 billion a year in lost economic output.

(12) The housing crisis also harms the environment by doing both of the following:

(A) Increasing pressure to develop the state's farmlands, open space, and rural interface areas to build affordable housing, and increasing fire hazards that generate massive greenhouse gas emissions.

(B) Increasing greenhouse gas emissions from longer commutes to affordable homes far from growing job centers.

(13) Homes, lots, and structures near good jobs, schools, and transportation remain underutilized throughout the state and could be rapidly remodeled or developed to add affordable homes without subsidy where they are needed with state assistance.

(14) Reusing existing infrastructure and developed properties, and building more smaller homes with good access to schools, parks, and services, will provide the most immediate help with the lowest greenhouse gas footprint to state residents.

(b) In light of the foregoing, the Legislature hereby declares a statewide housing emergency, to be in effect until January 1, 2025.

(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following:

(1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b).

(2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.

SEC. 3. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the

approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards,

unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without

rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify

adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

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

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total

units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) Notwithstanding any other law, until January 1, 2025, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1.

(6) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

~~(7) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.~~

~~(8)~~

(7) Until January 1, 2025, ~~"objective standard or criteria"~~ *"objective"* means ~~one that involves~~ *involving* no personal or subjective judgment by a public official and ~~is~~ *being* 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 of an application.~~ *official.*

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the housing development project's application is deemed complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings are supported by a preponderance of the evidence in the record, and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the

general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(III) (ia) Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(ib) This subclause shall become inoperative on January 1, 2025.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award

reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, "bad faith" includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record

shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) Subject to paragraphs ~~(2) and~~ *(2),* (6), *and (7), and subdivision (d) of Section 65941.1,* a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application *including all of the information required by subdivision (a) of Section 65941.1* was ~~submitted pursuant to Section 65941.1.~~ *submitted.*

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based

on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, ~~or standard~~ *standard, or any other measure,* beyond those in effect when a preliminary application was submitted is necessary to ~~mitigate~~ *avoid or substantially lessen* an impact of the project ~~to a less than significant level pursuant to~~ *under* the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within three years following the date that the project received final approval. For purposes of this subparagraph, "final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(i) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(ii) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the complete initial application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

~~(6)~~

(7) This subdivision shall become inoperative on January 1, 2025.

(p) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 4. Section 65905.5 is added to the Government Code, to read:

65905.5. (a) Notwithstanding any other law, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, a ~~city or county~~ *city, county, or city and county* shall not conduct more than five ~~de novo~~ hearings pursuant to Section 65905, or any other law, ordinance, or regulation requiring a public hearing in connection with the approval of that housing development project. *If the city, county, or city and county continues a hearing subject to this section to another date, the continued hearing shall count as one of the five*

hearings allowed under this section. The ~~city or county~~ *city, county, or city and county* shall consider and either approve or disapprove the application at any of the five hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)). ~~The city or county shall schedule each hearing to occur within 30 days following the request by the applicant, or an earlier date if otherwise required by law. The city or county shall not continue any hearing subject to this section to another date.~~

(b) For purposes of this section:

(1) "Deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) "Hearing" includes any public hearing, workshop, or similar meeting conducted by the city or county with respect to the housing development project, whether by the legislative body of the city or county, the planning agency established pursuant to Section 65100, or any other agency, department, board, or commission of the city or county or any committee or subcommittee thereof. *"Hearing" does not include a hearing to review a legislative approval required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.*

(3) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) For purposes of this section, a housing development project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project is consistent, compliant, or in conformity.

(2) A proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria, but the

zoning for the project site is inconsistent with the general plan. If the local agency complies with the written documentation requirements of paragraph (2) of subdivision (j) of Section 65589.5, the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning that is consistent with the general plan; however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(d) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 5. Section 65913.3 is added to the Government Code, to read:

65913.3. (a) As used in this section:

(1) (A) Except as otherwise provided in subparagraph (B), "affected city" means a ~~city,~~ *city or city and county,* including a charter city, for which the Department of Housing and Community Development determines, pursuant to subdivision (f), that the average of both of the following amounts is greater than zero:

(i) The percentage by which the city's average rate of rent ~~exceeded~~ *differed from* 130 percent of the national median rent in 2017, based on the federal 2013–2017 American Community Survey 5-year Estimates.

(ii) The percentage by which the vacancy rate for residential rental units ~~is less than~~ *differed from* the national vacancy rate, based on the federal 2013–2017 American Community Survey 5-year Estimates.

(B) Notwithstanding subparagraph (A), "affected city" does not include any city that has a population of 5,000 or less and is not located within an urban core.

(2) "Affected county" means *the unincorporated portions of* a county ~~in which at least 50 percent of the cities located within the territorial boundaries of the county are affected cities.~~ *that are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau, for which the*

Department of Housing and Community Development determines, pursuant to subdivision (f), that the average of both of the following amounts is greater than zero:

(A) The percentage by which the average rate of rent for residential uses in the unincorporated portions of the county that are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau, differed from 130 percent of the national median rent in 2017, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(B) The percentage by which the vacancy rate for residential rental units in the unincorporated portions of the county that are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau, differed from the national vacancy rate, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(3) Notwithstanding any other law, for purposes of any action that this section prohibits an affected county or an affected city from doing, "affected county" and "affected city" includes the electorate of the affected county or affected city, as applicable, exercising its local initiative or referendum power with respect to any act that is subject to that power by other law, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or affected city.

(4) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(b) (1) Notwithstanding any other law, with respect to land where housing is an allowable use on or after January 1, 2018, an affected county or an affected city, as applicable, shall not impose any new, or increase or enforce any existing, requirement that a proposed housing development include parking, as applicable:

(A) A minimum parking requirement if the proposed housing development is within one-quarter mile of a rail stop *that is a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, there is unobstructed access to the major transit stop from the proposed housing development, and the proposed housing development is* in an affected city that meets either of the following:

(i) The affected city is located in a county with a population of greater than 700,000.

(ii) The affected city has a population of 100,000 or greater and is located in a county with a population of 700,000 or less.

(B) A minimum parking requirement in excess of 0.5 spaces per unit in affected cities that are not subject to subparagraph (A).

(2) (A) An affected county or affected city may charge a fee that is in lieu of a housing development's compliance with any requirement imposed by the affected county or affected city, as applicable, to include a certain percentage of affordable units.

(B) Nothing in this section prevents an affected county or an affected city from charging a fee that is in lieu of a housing development's compliance with any requirement imposed by the affected county or affected city, as applicable, to include a certain percentage of affordable units.

(c) A proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria in effect as of January 1, 2018, but the zoning for the project site is inconsistent with the general plan. If the local agency complies with the written documentation requirements of paragraph (2) of subdivision (j) of Section 65589.5, the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning that is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(d) If the affected county or affected city approves an application for a conditional use permit for a proposed housing development project and that project would have been eligible for a higher density under the affected county's or affected city's general plan land use designation and zoning ordinances as in effect prior to January 1, 2018, the affected county or affected city shall allow the project at that higher density.

(e) (1) Notwithstanding any other provision of this section, if a proposed housing development project subject to this section would require the demolition of residential property as described in paragraph (2), an affected county or an affected city may only approve that housing development if all of the following apply:

(A) There is no net loss of units being rented at an affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) The proposed housing development project increases density above the density of the existing residential use of the property, including an increased number of deed-restricted low-income units.

(C) Existing residents are allowed to occupy their units until six months before the start of construction activities with proper notice, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(D) The developer agrees to provide both of the following:

(i) Relocation benefits to the occupants of those affordable residential rental units, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(ii) A right of first refusal for units available in the new housing development affordable to the household at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(E) The affected county or city is not otherwise prohibited from approving the demolition of the affordable rental units pursuant to subparagraph (B).

(2) For purposes of this subdivision, "residential property" means:

(A) Residential rental units that are any of the following:

(i) Assisted pursuant to Section 8 of the United States Housing Act of 1937.

(ii) Subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) Affordable to persons with a household income equal to or less than 80 percent of the area median income.

(B) A residential structure containing residential dwelling units currently occupied by tenants, or were previously occupied by tenants if those dwelling units were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 and subsequently offered for sale by the subdivider or subsequent owner of the property.

(3) Any units for which a developer provides relocation assistance or a right of first refusal pursuant to subparagraph (D) of paragraph (1) shall be considered in determining whether the housing development project satisfies the requirements, if

applicable, of an inclusionary housing ordinance of the affected county or affected city requiring that the development include a certain number of units affordable at the applicable household income levels of the household.

(f) The Department of Housing and Community Development shall determine those cities and counties in this state that are affected cities and affected counties, in accordance with subdivision (a), by June 30, 2020. The department's determination shall remain valid until January 1, 2025.

(g) (1) Except as provided in paragraphs (3) and (4) and in subdivision (h), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent specified in paragraph (2).

(2) It is the intent of the Legislature that this section be construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting planning standards that allow greater density in or reduce the costs to a housing development project or mitigation measures that are necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(h) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(i) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 6. Section 65913.10 is added to the Government Code, to read:

65913.10. (a) For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was ~~made.~~ *made unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.*

(b) For purposes of this section:

(1) "Deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 7. Section 65941.1 is added to the Government Code, to read:

65941.1. (a) A housing development project, as defined in paragraph (2) of subdivision (h) of Section 65589.5, shall be deemed to have submitted a preliminary application upon providing *all of* the following information about the proposed project to the city, county, or city and county from which approval for the project is being ~~sought:~~ *sought and upon payment of the permit processing fee:*

(1) The specific ~~location.~~ *location, including parcel numbers, a legal description, and site address, if applicable.*

(2) The *existing uses on the project site and identification of* major physical alterations to the property on which the project is to be located.

(3) A site ~~plan~~ *plan* showing the location on the property, ~~as well as~~ *elevations showing design, color, and material, and* the massing, height, and approximate square footage, of each building that is to be occupied.

(4) The proposed land uses by number of units ~~or~~ *and* square feet *of residential and nonresidential development* using the categories in the applicable zoning ordinance.

(5) The proposed number of parking spaces.

(6) Any proposed point sources of air or water pollutants.

(7) Any species of special concern known to occur on the property.

(8) Any portion of the property located within any of the following:

(A) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.

(D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

~~(8)~~

(9) Any historic or cultural resources known to exist on the property.

~~(9)~~

(10) The number of *proposed* below market rate units and their affordability levels.

(11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.

(12) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.

(13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

(b) ~~The~~ *(1) Each local agency shall compile a checklist and application form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application.*

(2) The Department of Housing and Community Development shall adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary ~~application.~~ *application if a local agency has not developed its own application form pursuant to paragraph (1).* Adoption of the standardized form shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) A checklist or form shall not require or request any information beyond that expressly identified in subdivision (a).

(c) After submittal of ~~a preliminary application,~~ *all of the information required by subdivision (a),* if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application *that satisfies this section* until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions. For purposes of this subdivision, "square footage of construction" means the building

area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(d) (1) Within 180 calendar days after submitting a preliminary application to a city, county, or city and county, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.

(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.

(3) This section shall not require an affirmative determination by a city, county, or city and county regarding the completeness of a preliminary application or a development application for purposes of compliance with this section.

~~(d)~~

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 8. Section 65943 of the Government Code is amended to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the

application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials described in subdivision (a), the public agency shall determine in writing whether the application as supplemented or amended by the submitted materials is complete and shall immediately transmit that determination to the applicant. In making this determination, the public agency is limited to determining whether the application as supplemented or amended includes the information required by the list and a thorough description of the specific information needed to complete the application required by subdivision (a). If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) Each city and each county shall make copies of any list compiled pursuant to Section 65940 with respect to information required from an applicant for a housing development project, as that term is defined in paragraph (2) of subdivision (h) of Section 65589.5, available both (1) in writing to those persons to whom the agency is required to make information available under subdivision (a) of that section, and (2) publicly available on the internet website of the city or county.

(g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 9. Section 65943 is added to the Government Code, to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether

they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) This section shall become operative on January 1, 2025.

SEC. 10. Section 65950 of the Government Code is amended to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Sixty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality

Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a housing development project, as that term is defined in paragraph (2) of subdivision (h) of Section 65589.5.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 11. Section 65950 is added to the Government Code, to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) One hundred twenty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied

units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a use consisting of either of the following:

(1) Residential units only.

(2) Mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50 percent of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty

stores that furnish goods and services primarily to residents of the neighborhood.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

(e) This section shall become operative on January 1, 2025.

SEC. 12. Section 65950.2 is added to the Government Code, to read:

65950.2. (a) Notwithstanding any other law, the deadlines specified in this article are mandatory.

(b) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 13. Chapter 12 (commencing with Section 66300) is added to Division 1 of Title 7 of the Government Code, to read:

Chapter 12. Housing Crisis Act of 2019

66300. (a) As used in this section:

(1) (A) Except as otherwise provided in subparagraph (B), "affected city" means a city, including a charter city, for which the Department of Housing and Community Development determines, pursuant to subdivision (d), that the average of both of the following amounts is greater than zero:

(i) The percentage by which the city's average rate of rent ~~exceeded~~ *differed from* 130 percent of the national median rent in 2017, based on the federal ~~2013–2017~~ *2013-2017* American Community Survey 5-year Estimates.

(ii) The percentage by which the vacancy rate for residential rental units ~~is less than~~ *differed from* the national vacancy rate, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(B) Notwithstanding subparagraph (A), "affected city" does not include any city that has a population of 5,000 or less and is not located within an urban core.

(2) "Affected county" means a county in which at least 50 percent of the cities located within the territorial boundaries of the county are affected cities.

(3) Notwithstanding any other law, "affected county" and "affected city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that

power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.

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

(5) "Development policy, standard, or condition" means any of the following:

(A) A provision of, or amendment to, a general plan.

(B) A provision of, or amendment to, a specific plan.

(C) A provision of, or amendment to, a zoning ordinance.

(D) A subdivision standard or criterion.

(6) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(7) "Objective design standard" means a design standard that involve no personal or subjective judgment by a public official and is 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 of an application.

(b) (1) Notwithstanding any other law, with respect to land where housing is an allowable use on or after January 1, 2018, an affected county or an affected city shall not enact a development ~~police,~~ *policy,* standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing, as defined in paragraph (1) of subdivision (f).

(B) (i) Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within

all or a portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium or for projects specifically identified as existing restricted affordable housing.

(ii) The affected county or affected city, as applicable, shall not enforce a zoning ordinance imposing a moratorium or other similar restriction on or limitation of housing development until it has submitted the ordinance to, and received approval from, the department. The department shall approve a zoning ordinance submitted to it pursuant to this subparagraph only if it determines that the zoning ordinance satisfies the requirements of this subparagraph. If the department denies approval of a zoning ordinance imposing a moratorium or similar restriction or limitation on housing development as inconsistent with this subparagraph, that ordinance shall be deemed void.

(C) Imposing or enforcing design standards established on or after January 1, 2018, that are not objective design standards.

(D) Except as provided in subparagraph (E), establishing or implementing any provision that:

(i) Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city, as applicable.

(ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.

(iii) Limits the population of the affected county or affected city, as applicable.

(E) Notwithstanding subparagraph (D), an affected city or county may enforce a limit on the number of approvals or permits or a cap on the number of housing units that can be approved or constructed if the provision of law imposing the limit was approved by voters prior to January 1, 2005, and the affected city or county is located in a predominantly agricultural county. For the purposes of this subparagraph, “predominantly agricultural county” means a county that meets both of the following, as determined by the most recent California Farmland Conversion Report produced by the Department of Conservation:

(i) Has more than 550,000 acres of agricultural land.

(ii) At least one-half of the county area is agricultural land.

(2) Any development policy, standard, or condition enacted on or after January 1, 2018, that does not comply with this section shall be deemed void.

(c) Notwithstanding subdivisions (b) and (e), an affected county or affected city may enact a development policy, standard, or condition to prohibit the commercial use of land that is designated for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority conferred on the county or city by other law.

(d) The Department of Housing and Community Development shall determine those cities and counties in this state that are affected cities and affected counties, in accordance with subdivision (a) by June 30, 2020. The department's determination shall remain valid until January 1, 2025.

(e) (1) Except as provided in paragraphs (3) and (4) and in subdivision (g), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent specified in paragraph (2).

(2) It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that:

(A) Allows greater density.

(B) Facilitates the development of housing.

(C) Reduces the costs to a housing development project.

(D) Imposes or implements mitigation measures as necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(f) (1) Notwithstanding Section 9215, 9217, or 9323 of the Elections Code or any other provision of law, except the California Constitution and as provided in paragraph (2), any requirement that local voter approval, or the approval of a supermajority of any body of the affected county or the affected city, be obtained to increase the allowable intensity of housing, to establish housing as an allowable use, or to provide services and infrastructure necessary to develop housing, is hereby declared against public policy and void. For purposes of this subdivision, "intensity of housing" is broadly defined to include, but is not limited to, height, density, or floor area ratio, or open space or lot size requirements, or setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would be a less intensive use or reduction in the intensity of land use as defined in this subdivision.

(2) This section shall not be construed to void a height limit, urban growth boundary, or urban limit established by the electorate of an affected county or an affected city on or before January 1, 2018.

(g) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(h) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.

66301. This chapter shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 14. Section 17980.12 is added to the Health and Safety Code, to read:

17980.12. (a) As used in this section, "occupied substandard building or unit" means a building or unit in which one or more persons reside that an enforcement agency finds is in violation of

any provision of this part, any building standards published in the California Building Standards Code, or any other rule or regulation adopted pursuant to this part.

(b) (1) An enforcement agency that issues to an owner of an occupied substandard building or unit in a zone where residential use is a permitted use, including areas zoned for mixed use, a notice to correct a violation of any provision of any building standard adopted pursuant to this part, or to abate a nuisance pursuant to this part, shall include in that notice a statement that the owner of the occupied substandard building or unit has the right to request a delay in enforcement of up to seven years.

(2) The owner of an occupied substandard building or unit that receives a notice to correct a violation or abate a nuisance, as described in paragraph (1), may submit an application to the enforcement agency, in the form and manner prescribed by the enforcement agency, requesting that the enforcement of the violation be delayed for up to seven years on the basis that correcting the violation or abating the nuisance is not necessary to protect health and safety.

(3) The enforcement agency ~~shall~~ *may* grant an application submitted pursuant to paragraph (2) and delay enforcement if it determines that correcting the violation or abating the nuisance is not necessary to protect health and safety. An enforcement agency may require violations or nuisances that impact health and safety to be corrected or abated earlier than seven years.

(c) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 15. 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, the provisions of this act apply to all cities, including charter cities.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the

meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 17. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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LEGISLATIVE ADVOCACY COMMITTEE
AGENDA STAFF REPORT

TO:	COMMITTEE MEMBERS	DATE:	JULY 1, 2019
FROM:	CITY MANAGER	ITEM NO:	4
SUBJECT:	SB 13 (WIECKOWSKI) ACCESSORY DWELLING UNITS		

RECOMMENDATION:

1. Discuss the City's position on SB 13 (Wieckowski) Accessory Dwelling Units; and

2. Direct staff to send a customized letter of opposition to the bill's author and to take any other related action.

BACKGROUND/ANALYSIS:
The Planning and Zoning Law authorizes a local agency, by ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, to provide for the creation of accessory dwelling units in single-family and multifamily residential zones. Existing law requires accessory dwelling units to comply with specified standards, including that the accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling or detached if located within the same lot, and that it does not exceed a specified amount of total area of floor space.

This bill would, instead, authorize the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The bill would also revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or other structure, and that it does not exceed a specified amount of total floor area. This bill would prohibit a local agency from requiring the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. It would also prohibit a local agency, special district, or water corporation from imposing any impact fee upon the development of an accessory dwelling unit if that fee, in the aggregate, exceeds specified requirements depending on the size of the unit. The bill would revise the basis for calculating the connection fee or capacity charge specified above to either the accessory dwelling unit's square feet or the number of its drainage fixture unit values, as specified, and could not consider it to be a new unit.

The City of Chino Hills is a bedroom community with very little public transportation. SB 13 would increase demand for on-street parking, exacerbating existing parking problems and adversely affect our residents quality of life. From an aesthetics perspective, garage conversions are generally unsightly. For these reasons alone, the City may need to revisit its ability to prohibit accessory dwelling units all together if garage conversions are going to be allowed.

More information pertaining to this bill is attached. City Staff recommends opposition to this bill and recommends sending a customized letter of opposition to the bill's author. The League of California Cities has also taken an opposition position on this bill.

ENVIRONMENTAL (CEQA) REVIEW:
N/A

FISCAL IMPACT:
N/A

REVIEWED BY OTHERS:
This item has been reviewed by the Community Development Director and the City Attorney.

Respectfully Submitted,

Benjamin Montgomery
City Manager

Recommended By:

Cheryl Balz
City Clerk

Attachments Bill Text
City's Sample Letter

AMENDED IN SENATE MAY 17, 2019

AMENDED IN SENATE APRIL 23, 2019

AMENDED IN SENATE APRIL 4, 2019

AMENDED IN SENATE MARCH 11, 2019

SENATE BILL No. 13

Introduced by Senator Wieckowski
(Principal coauthors: Senators Beall, Hertzberg, and Wiener)
(Principal coauthors: Assembly Members Gloria and Quirk-Silva)
(Coauthors: Senators Nielsen and Skinner)
(Coauthors: Assembly Members ~~Levine~~ *Boerner Horvath, Carrillo, Friedman, Levine,* and Patterson)

December 3, 2018

An act to amend Sections 65585 and 65852.2 of the Government Code, and to add and repeal Section 17980.12 of the Health and Safety Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 13, as amended, Wieckowski. Accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency, by ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, to provide for the creation of accessory dwelling units in single-family and multifamily residential zones. Existing law requires accessory dwelling units to comply with specified standards, including that the accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling or detached if located within the same lot, and that it does not exceed a specified amount of total area of floor space.

This bill would, instead, authorize the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling use. The bill would also revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or other structure, and that it does not exceed a specified amount of total floor area.

(2) Existing law generally authorizes a local agency to include in the ordinance parking standards upon accessory dwelling units, including authorizing a local agency to require the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. Existing law also prohibits a local agency from imposing parking standards on an accessory dwelling unit if it is located within one-half mile of public transit.

This bill would, instead, prohibit a local agency from requiring the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. The bill would also prohibit a local agency from imposing parking standards on an accessory dwelling unit that is located within a traversable distance of one-half mile of public transit, and would define the term "public transit" for those purposes.

(3) Existing law authorizes a local agency to establish minimum and maximum ~~square-feet~~ *unit size* limitations on accessory dwelling units, provided that the ordinance permits an ~~800 square-foot accessory dwelling unit~~ *efficiency unit* to be constructed in compliance with local development standards.

~~This bill would instead require that ordinance to permit an 850 square-foot accessory dwelling unit and, if the unit consists of more than one bedroom, a 1,000 square-foot accessory dwelling unit to be constructed in compliance with local development standards.~~

This bill would prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1000 square feet if the accessory dwelling unit contains more than one bedroom.

(4) Existing law authorizes a local agency to include in an ordinance governing accessory dwelling units a requirement that a permit applicant be an owner-occupant, and authorizes a local agency, as a part of a ministerial approval process for accessory dwelling units, to require

owner occupancy for either the primary or the accessory dwelling unit created by that process.

This bill would, instead, prohibit a local agency from requiring occupancy of either the primary or the accessory dwelling unit.

(5) Existing law requires a local agency that has not adopted an ordinance governing accessory dwelling units to approve or disapprove the application ministerially and without discretionary review within 120 days after receiving the application.

The bill would require a local agency, whether or not it has adopted an ordinance, to consider and approve an application, ministerially and without discretionary review, within 60 days after receiving the application. The bill would also provide that, if a local agency does not act on the application within that time period, the application shall be deemed approved.

(6) Existing law requires fees for an accessory dwelling unit to be determined in accordance with the Mitigation Fee Act. Existing law also requires the connection fee or capacity charge for an accessory dwelling unit requiring a new or separate utility connection to be based on either the accessory dwelling unit's size or the number of its plumbing fixtures.

This bill would prohibit a local agency, special district, or water corporation from imposing any impact fee upon the development of an accessory dwelling unit if that fee, in the aggregate, exceeds specified requirements depending on the size of the unit. The bill would revise the basis for calculating the connection fee or capacity charge specified above to either the accessory dwelling unit's square feet or the number of its drainage fixture unit values, as specified.

(7) Existing law, for purposes of these provisions, defines "accessory structure" as an existing, habitable or nonattached or detached fixed structure, which includes a garage, studio, pool house, or other similar structure.

This bill would redefine "accessory structure" to mean a structure that is accessory and incidental to a dwelling located on the same lot.

(8) Existing law requires a local agency to submit a copy of the adopted ordinance to the Department of Housing and Community Development and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to the local agency as to whether the ordinance complies with the statute authorizing the creation of an accessory dwelling unit, and,

if the department finds that the local agency's ordinance does not comply with those provisions, would require the department to notify the local agency and would authorize the department to notify the Attorney General that the local agency is in violation of state law. The bill would authorize the department to adopt guidelines to implement uniform standards or criteria to supplement or clarify the provisions authorizing accessory dwelling units.

(9) Existing law requires the planning agency of each city and county to adopt a general plan that includes a housing element that identifies adequate sites for housing. Existing law authorizes the department to allow a city or county to do so by a variety of methods and also authorizes the department to allow a city or county to identify sites for accessory dwelling units, as specified.

This bill would state that a local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing in accordance with those provisions.

(10) Existing law, the State Housing Law, a violation of which is a crime, establishes statewide construction and occupancy standards for buildings used for human habitation. Existing law requires, for those purposes, that any building, including any dwelling unit, be deemed to be a substandard building when a health officer determines that any one of specified listed conditions exists to the extent that it endangers the life, limb, health, property, safety, or welfare of the public or its occupants.

This bill would authorize the owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for ~~10~~ *5* years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements. The bill would make conforming and other changes relating to the creation of accessory dwelling units.

By increasing the duties of local agencies with respect to land use regulations, and because the bill would expand the scope of a crime under the State Housing Law, the bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5).

(2) Section 65863.

(3) Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7.

(4) Section 65008.

(5) Section 65852.2.

SEC. 2. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The *accessory dwelling* unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per *accessory dwelling* unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to ~~a~~ *an accessory dwelling* unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory

dwelling unit or converted to an accessory dwelling unit, a local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 60 days after receiving the application. If the local agency has not acted upon the submitted application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local

agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 60 days after receiving the application. If the local agency has not acted upon the submitted application within 60 days, the application shall be deemed approved.

~~(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit either of the following to be constructed in compliance with local development standards:~~

~~(1) An 850 square-foot accessory dwelling unit.~~

~~(2) A 1,000 square-foot accessory dwelling unit, if the unit provides more than one bedroom.~~

(c) (1) A local agency shall not establish by ordinance a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(2) A local agency shall not establish by ordinance a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(A) 850 square feet.

(B) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within a traversable distance of one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create one accessory dwelling unit per lot if the unit is substantially contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

(f) A local agency shall not require owner occupancy for either the primary or the accessory dwelling unit. An agreement with a local agency to maintain owner occupancy as a condition of issuance of a building permit for an accessory dwelling unit shall be void and unenforceable.

(g) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(3) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit if that fee, in the aggregate, exceeds the following:

(A) An accessory dwelling unit less than 750 square feet will be charged zero impact fees.

(B) An accessory dwelling unit 750 or more square feet shall be charged 25 percent of the impact fees otherwise charged for a new single-family dwelling on the same lot.

(4) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(5) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(h) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(i) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and may notify the office of the Attorney General that the local agency is in violation of state law.

(3) The local agency shall consider findings made by the department pursuant to paragraph (2) and may change the ordinance

to comply with this section or adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(j) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(k) As used in this section, the following terms mean:

(1) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(2) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

~~(2)~~

(3) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

~~(3)~~

(4) "Local agency" means a city, county, or city and county, whether general law or chartered.

~~(4)~~

(5) "Neighborhood" has the same meaning as set forth in Section 65589.5.

~~(5)~~

(6) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency ~~unit, as defined in Section 17958.1 of the Health and Safety Code.~~ *unit.*

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

~~(6)~~

(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

~~(7)~~

(8) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~(8)~~

(9) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(*l*) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards for an accessory dwelling unit pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code.

SEC. 3. Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read:

17980.12. (a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the

enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for ~~10~~ *five* years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, ~~2040,~~ *2035*, and as of that date is repealed.

SEC. 4. 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.

O

June 27, 2019

The Honorable Senator Bob Wieckowski
California State Senate
State Capitol Building, Room 4085
Sacramento, CA 95814

Re: SB 13 (Wieckowski) Land Use: Accessory dwelling units
Notice of Opposition

Dear Senator Wieckowski:

The City of _____ respectfully opposes your bill, SB 13. In its current form, SB 13 would require that cities allow for garages and carports to be converted to accessory dwelling units, or demolished to make way for the construction of an accessory dwelling unit, and would prohibit local agencies from requiring replacement of the lost offstreet parking spaces. Existing law leaves it up to the discretion of each city as to whether to allow such conversions and allows for cities to require replacement parking.

This legislation actually encourages garage conversions and is illogical as currently cities can require parking for accessory dwelling units unless they are located within a traversable distance of one-half mile of public transit. This means that a city could require parking if a property owner builds a new structure but not if a property owner converts a garage which results in loss of existing parking and the loss of the ability to require replacement parking. This simply makes no sense.

Chino Hills is a bedroom community with very little public transportation. In general, almost every adult needs a car for transportation purposes. SB 13 would spike demand for onstreet parking, exacerbating existing parking problems and adversely affecting the quality of life that our residents enjoy. Finally, from an aesthetics perspective, garage conversions are generally unsightly. For these reasons alone, the City may need to revisit its ability to prohibit accessory dwelling units all together if garage conversions are going to be allowed.

In its current form, SB 13 would also prevent local agencies from enforcing any building code requirement that "is not necessary to protect the public health and safety." Not

only would this provision invite needless litigation over which building code requirements are "necessary to protect public health and safety" (placing additional, unnecessary strain on local budgets), it ignores the fact that the very purpose of the building code is to establish minimum requirements necessary to safeguard the public health and safety. Section 1.1.2 of the California Building Code provides:

> 1.1.2 Purpose. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to fire fighters and emergency responders during emergency operations.

By its own terms, every requirement of the California Building Code is necessary to protect public health and safety. Your bill's suggestion that some portion of the building code may be (and, indeed, must be) ignored to facilitate the development of accessory dwelling units is dangerously shortsighted. In the interest of protecting the public health and safety and avoiding needless litigation, the City of _____ urges you to reconsider this aspect of your bill. This provision will encourage individuals to build unpermitted substandard structures and needlessly subject individuals to personal injuries.

The City also has significant concerns regarding the deletion of the owner occupancy requirement in the existing legislation (owner must occupy one of the units). This will encourage investors to purchase and convert single family property to two unit properties and further reduce the number of owner occupied units in the City. Tenants tend to be move more frequently relative to owner occupants. While the City understands the need for rental housing, the character of the City will be greatly and adversely changed if there is a decline in the number of long-term residents of the City. Long-term residents tend to invest more time and money in their community and are big part of what makes _____ and other cities unique.

The proposed revision which purports the properties to be essentially subdivided and sold to the extent the affordable housing requirements are met, is confusing and inconsistent with the rest of the legislation. For example, the existing legislation prevents requiring new utility service connections. How can a property be subdivided without each parcel having its own utility service. In fact, state law requires that each parcel have its own water service connection and meter. Additionally, it raises many issues as to access easements, parking requirements, etc.

Finally, with respect to new accessory dwelling units, SB 13 would prohibit local agencies from imposing development impact fees equal to the reasonable cost of providing related public services and facilities and would instead randomly cap impact fees at a fraction of the actual cost of providing the additional services and facilities.

Development impact fees are a critical tool for local governments. They are meant to ensure that the cost of public facilities related to new development is borne by the developer (the benefitted party) as opposed to the taxpayer generally. SB 13 would undoubtedly encourage the development of new accessory units and those new units, and the new residents accommodated by them, would in turn increase demand for expanded public services and facilities. Requiring taxpayers generally to subsidize a portion of the cost of lucrative new development is both unfair and inequitable. And, given the current strain on local budgets throughout the state, the loss of this critical revenue source will surely make it difficult or impossible for local agencies to adequately maintain and expand governmental services and facilities necessary to serve their increasingly dense populations.

The City of _____ has permitted approximately __ accessory dwelling units over the past few years. It has been working cooperatively with homeowners that want to construct accessory dwelling units. However the above reasons, the City of _____ opposes SB 13.

Sincerely,

Drew Boyles
Mayor
City of _____

cc: Senator Benjamin Allen
Senator Robert Hertzberg
Senator Scott Wiener
Senator Jim Beall
Senator Jim Nielsen
Senator Nancy Skinner
Assembly Member Autumn R. Burke
Assembly Member Todd Gloria
Assembly Member Sharon Quirk-Silva
Los Angeles County Supervisor Janice Hahn
Assembly Member Phillip Chen Fax 916.319.2155; 714.529.5548
Assembly Public Safety Committee Fax 916.319.3745
Laura Morales, League of California Cities Regional Public Affairs Manager; lmorales@cacities.org
League of California Cities; CityLetters@cacities.org

LEGISLATIVE ADVOCACY COMMITTEE
AGENDA STAFF REPORT

TO:	COMMITTEE MEMBERS	DATE:	JULY 1, 2019
FROM:	CITY MANAGER	ITEM NO:	5
SUBJECT:	AB 1763 (Chiu) Density Bonus: 100% Affordable Housing		

RECOMMENDATION:

1. Discuss the City's position on AB 1763 (Chiu) Density Bonus: 100% Affordable Housing; and

2. Direct staff on action to be taken.

BACKGROUND/ANALYSIS:
AB 1763 (Chiu) Density Bonus: 100 percent Affordable Housing would greatly expand existing Density Bonus Law (DBL) to require the City or County to award a developer significantly more density, additional concessions and incentives, and greater allowable height if 100% of the units in a development are restricted to lower income households.

Transit agencies would play a role in determining land use near "major transit stops" and "high quality transit corridors." Unlimited density and up to three additional stories for developments within one-half mile of a "major transit stop." Unlimited density and up to two additional stories for developments along an entire "high quality bus corridor."

More information pertaining to the bill is attached. The League of California Cities has taken the opposition position on this bill.

ENVIRONMENTAL (CEQA) REVIEW:
N/A

FISCAL IMPACT:
N/A

REVIEWED BY OTHERS:
This item was reviewed by the Community Development Director.

Respectfully Submitted,

Benjamin Montgomery
City Manager

Recommended By:

Cheryl Balz
City Clerk

Attachments Bill Text
LOCC Sample Letter

AMENDED IN SENATE JUNE 20, 2019

AMENDED IN SENATE JUNE 11, 2019

AMENDED IN ASSEMBLY MARCH 28, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 1763

Introduced by Assembly Member Chiu

February 22, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1763, as amended, Chiu. Planning and zoning: density bonuses: affordable housing.

Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Existing law provides for the calculation of the amount of density bonus for each type of housing development that qualifies under these provisions.

This bill would additionally require a density bonus to be provided to a developer who agrees to construct a housing development in which 100% of the total units, exclusive of managers' units, are for lower income households, as defined. *However, the bill would provide that a*

housing development that qualifies for a density bonus under its provisions may include up to 20% of the total units for moderate-income households, as defined. The bill would also require that a housing development that meets ~~this~~ *these* criteria receive 4 incentives or concessions under the Density Bonus Law. The bill would generally require that the housing development receive a density bonus of 80%, but would exempt the housing development from any maximum controls on density if it is located within ½ mile of a major transit stop or a high-quality transit corridor, as defined, and additionally require the city, county, or city and county to allow an increase in height and floor area ratio in specified amounts that vary depending on whether the development is located within ½ mile of a major transit stop or a high-quality transit corridor. The bill would also make various nonsubstantive changes to the Density Bonus Law.

Existing law requires that an applicant for a density bonus agree to, and that the city and county ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for a density bonus for at least 55 years, as provided. Existing law requires that the rent for lower income density bonus units be set at an affordable rent, as defined in specified law.

This bill, for units in the development, including both base density and density bonus units, in a housing development that qualifies for a density bonus under its provisions as described above, would instead require that the rent for at least 20% of the units in that development be set at an affordable rent, defined as described above, and that the rent for the remaining units be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

Existing law, upon the request of the developer, prohibits a city, county, or city and county from requiring a vehicular parking ratio for a development meeting the eligibility requirements under the Density Bonus Law that exceeds specified ratios. For a development that consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in specified law, and that is a special needs housing development, as defined, existing law limits that vehicular parking ratio to 0.3 spaces per unit.

This bill would instead, upon the request of the developer, prohibit a city, county, or city and county from imposing any minimum vehicular

parking requirement for a development that consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families and is either a special needs housing development or a supportive housing development, as those terms are defined.

By adding to the duties of local planning officials with respect to the award of density bonuses, this bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 65915 of the Government Code, as amended by Chapter 937 of the Statutes of 2018, is amended to read:

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

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

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

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

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

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

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing

development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

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

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

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

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

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

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with

students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of the total units, exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety ~~Code.~~ *Code, except that up to 20 percent of the total units in the development*

may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

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

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing

agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

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

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

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

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

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

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

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

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable

housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

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

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

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

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

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the

applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

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

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

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

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

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

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

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

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30

percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects that include 100 percent of the total units, exclusive of a managers' unit or units, for lower income households.

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

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

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

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

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

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

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

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

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

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

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

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

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) (I) If the housing development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or city and county shall not impose any maximum controls on density and shall allow a height increase of up to three additional stories, or 33 feet, and an increase in the allowable floor area ratio of up to 55 percent relative to the underlying limit, or 4.25, whichever is greater.

(II) If the housing development is located within one-half mile of a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or

city and county shall not impose any maximum controls on density and shall allow a height increase of up to two additional stories, or 22 feet, and an increase in the allowable floor area ratio of up to 50 percent relative to the underlying limit, or 3.75, whichever is greater.

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

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

40	35

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

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

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

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase

pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

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

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

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

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

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

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

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

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

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

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

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

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

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

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

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

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

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

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

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

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

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that

results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

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

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

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

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

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

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

(1) “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a

setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

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

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

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

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

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

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall

not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

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

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

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

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

~~(4)~~

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

~~(5)~~

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

~~(6)~~

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

~~(7)~~

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

~~(8)~~

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

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

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

SEC. 2. 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.

O

June 18, 2019

The Honorable Scott Wiener
Chair, Senate Housing Committee
State Capitol Building, Room 5100
Sacramento, CA 95814

RE: **AB 1763 (Chiu) Density Bonus: 100% Affordable Housing**
Oppose Unless Amended *(as amended 6/11/19)*

Dear Senator Wiener:

The League of California Cities must respectfully assume an oppose unless amended position on AB 1763 (Chiu). This measure would greatly expand existing Density Bonus Law (DBL) to require a city or county to award a developer significantly more density, additional concessions and incentives, and greater allowable height if 100% of the units in a development are restricted to lower income households.

We agree with the fundamental problem—there aren't enough homes, especially homes affordable to low-income households, being built in California. The League of California Cities remains committed to working with you, the Legislature, and the Governor on finding ways to help spur much needed housing construction statewide.

Unfortunately, the League of California Cities opposes the expansion of DBL as outlined in AB 1763 as it relates to "major transit stops" and "high quality transit corridors." Specifically, we have concerns with the following:

- **Transit agencies would play a role in determining land use** near "major transit stops" and "high quality transit corridors." AB 1763 would alter existing land use policies based on transit service that is not under the authority or local jurisdictions.
- **Unlimited density and up to three additional stories** for developments within one-half mile of a "major transit stop." While the existing 35% density bonus allowance may need to be adjusted for projects near major transit stops that contain 100% affordable units, granting a developer an unlimited density bonus and three additional stories is too extreme in many communities. It is almost assured that such an expansion of DBL will undermine a city's state certified housing element and community-based housing plans.

- **Unlimited density and up to two additional stories** for developments along an entire "high quality bus corridor." Bus corridors are by nature not set in stone and can be easily altered at the whim of a transit authority. Allowing developers to greatly increase density around bus corridors could result in residents being stranded, if bus service becomes inadequate.

The League of California Cities stands ready to work with you on amendments to address our primary concerns with your AB 1763. If you have any questions, please feel free to contact me at (916) 658-8264.

Sincerely,

Jason Rhine
Assistant Legislative Director

cc. The Honorable David Chiu
Members, Senate Housing Committee
Erin Riches, Consultant, Senate Housing Committee
Doug Yoakam, Consultant, Senate Republican Caucus

LEGISLATIVE ADVOCACY COMMITTEE
AGENDA STAFF REPORT

TO:	COMMITTEE MEMBERS	DATE:	JULY 1, 2019
FROM:	CITY MANAGER	ITEM NO:	6
SUBJECT:	AB 881 (BLOOM) ACCESSORY DWELLING UNITS		

RECOMMENDATION:

1. Discuss the City's position regarding AB 881 (Bloom) Accessory Dwelling Units; and

2. Direct staff on action to be taken.

BACKGROUND/ANALYSIS:
AB 881 (Bloom) Accessory Dwelling Units, The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

More information pertaining to this bill is attached. The League of California Cities has taken an opposition position on this bill.

ENVIRONMENTAL (CEQA) REVIEW:
N/A

FISCAL IMPACT:
N/A

REVIEWED BY OTHERS:
This item was reviewed by the Community Development Director and the Public Works Director.

Respectfully Submitted,

Benjamin Montgomery
City Manager

Recommended By:

Cheryl Balz
City Clerk

Attachments Bill Text
LOCC Sample Letter

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 881

Introduced by Assembly Member Bloom

February 20, 2019

An act to ~~amend~~ *amend, repeal, and add* Section 65852.2 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 881, as amended, Bloom. Accessory dwelling units.

(1) The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(2) Existing law authorizes a local agency to require an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit.

~~The bill~~

This bill, until January 1, 2025, would delete the provision authorizing a local agency to require owner-occupancy as a condition of issuing a permit.

(3) Existing law prohibits a local agency from imposing parking standards for an accessory dwelling unit if, among other conditions, the accessory dwelling unit is located within ½ mile of public transit.

This bill would make that prohibition applicable if the accessory dwelling unit is located within ½ mile walking distance of public transit, and would define public transit for those purposes.

(4) Existing law requires a local agency to ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single family lot of the unit that is contained within the existing space of a single-family residence or accessory structure.

This bill would instead require a local agency to ministerially approve an application for a building permit to create an accessory dwelling unit that is contained within an existing structure, including the primary residence or an accessory structure. The bill would define "accessory structure" for purposes of those provisions.

(5) By increasing the duties of local agencies with respect to land use regulations, this bill would impose a state-mandated local program.

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

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

(6) This bill would include findings that the 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.

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

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

SECTION 1. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet

from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require the property to be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory

dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create an accessory dwelling unit within an existing structure, including, but not limited to, the primary residence, a studio, garage, pool house, or other similar structure. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(6) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(7) "Public transit" means a bus stop, bus line, light rail, street car, car share drop off or pick up, or heavy rail stop.

(8) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(k) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 65852.2 is added to the Government Code, to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null

and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision for an accessory dwelling unit created on or after January 1, 2025, to be an owner-occupant, or may require the property to be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory

dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create an accessory dwelling unit within an existing structure, including, but not limited to, the primary residence, a studio, garage, pool house, or other similar structure. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require, for accessory dwelling units created on or after January 1, 2025, owner occupancy for either the primary or the accessory dwelling unit created through this process.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(6) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(7) "Public transit" means a bus stop, bus line, light rail, street car, car share drop off or pick up, or heavy rail stop.

(8) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(k) This section shall become operative on January 1, 2025.

~~SEC. 2.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 3.~~

SEC. 4. The Legislature finds and declares that Section 1 of this act amending Section 65852.2 of the Government Code addresses a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act applies to all cities, including charter cities.

O

June 17, 2019

The Honorable Scott Wiener
Chair, Senate Housing Committee
State Capitol Building, Room 5100
Sacramento, CA 95814

RE: **AB 881 (Bloom) Accessory Dwelling Units**
Oppose Unless Amended

Dear Senator Wiener:

The League of California Cities must respectfully oppose AB 881 (Bloom) unless it is amended to reinstate existing law, which allows a local jurisdiction to impose owner occupancy requirements on parcels with accessory dwelling units (ADUs).

AB 881 would prohibit a local jurisdiction from requiring a property owner live in the main house or one of the accessory structures until January 1, 2025. This would incentivize operating the property as a commercial enterprise and could have the unintended effect of large-scale investors purchasing many single-family homes and adding ADUs, thus operating more like a property management company, not a homeowner seeking some additional income. Additionally, owner occupancy requirements could provide greater oversight and an opportunity to provide more affordable rents as a homeowner is less likely to be profit driven.

For the reasons stated above, the League of California Cities opposes AB 881 unless it is amended to address our concerns. If you have any questions, please feel free to contact me at (916) 658-8264.

Sincerely,

Jason Rhine
Assistant Legislative Director

cc. The Honorable Richard Bloom
Chair and Members, Senate Committee on Housing
Erin Riches, Consultant, Senate Committee on Housing
Doug Yoakam, Consultant, Senate Republican Caucus

LEGISLATIVE ADVOCACY COMMITTEE
AGENDA STAFF REPORT

TO:	COMMITTEE MEMBERS	DATE:	JULY 1, 2019
FROM:	CITY MANAGER	ITEM NO:	7
SUBJECT:	AB 68 (TING) LAND USE: ACCESSORY DWELLING UNITS		

RECOMMENDATION:

1. Discuss the City's position regarding AB 68 (Ting) Land Use: Accessory Dwelling Units; and

2. Direct staff on action to be taken.

BACKGROUND/ANALYSIS:
The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and sets forth required ordinance standards, including, among others, lot coverage. AB 68 (Ting) Land Use: Accessory Dwelling Units would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size.

More information pertaining to the bill is attached. The League of California Cities has taken the opposition position on this bill.

ENVIRONMENTAL (CEQA) REVIEW:
N/A

FISCAL IMPACT:
N/A

REVIEWED BY OTHERS:
This item was reviewed by the Community Development Director.

Respectfully Submitted,

Benjamin Montgomery
City Manager

Recommended By:

Cheryl Balz
City Clerk

Attachments Bill Text
LOCC Sample Letter

AMENDED IN SENATE JUNE 12, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 68

Introduced by Assembly Member Ting
(Coauthors: Assembly Members ~~Gloria~~ *Gloria, Reyes,* and Wicks)
(Coauthors: Senators Skinner and Wiener)

December 3, 2018

An act to amend Sections 65852.2 and 65852.22 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as amended, Ting. Land use: accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and sets forth required ordinance standards, including, among others, lot coverage.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size.

(2) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit *or a junior accessory dwelling unit* within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit ~~permit~~ *or junior accessory dwelling unit* within 60 days from the

date the local agency receives a completed ~~application.~~ *application if there is an existing single-family or multifamily dwelling on the lot, and would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.*

(3) Existing law prohibits the establishment by ordinance of minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, if the limitations do not permit at least an efficiency unit to be constructed.

This bill would instead prohibit the imposition of those limitations if they do not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with 4-foot side and rear yard setbacks. This bill would additionally prohibit the imposition of limits on lot coverage, floor area ratio, open space, and minimum lot size if they prohibit the construction of an accessory dwelling unit meeting those specifications.

(4) Existing law requires ministerial approval of a *building* permit to create *within a zone for single-family use* one accessory dwelling unit ~~within a~~ *per* single-family ~~dwelling,~~ *lot,* subject to specified conditions and requirements.

This bill would *instead* require ministerial approval of an application for a *building* permit *within a residential or mixed-use zone* to create one or more accessory dwelling units or junior accessory dwelling units ~~on a lot with a~~ *depending on, among other things, whether the* proposed or existing *structure on the lot is a* single-family dwelling or multifamily dwelling, subject to specified conditions and requirements.

(5) Existing law requires a local agency to submit its accessory dwelling unit ordinance to the Department of Housing and Community Development within 60 days after adoption and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to a local agency as to whether the local ordinance complies with state law, would require the local agency to consider the department's findings and to amend its ordinance to comply with state law or adopt a resolution with specified findings. The bill would require the department to notify the Attorney General that the local agency is in violation of state law if the local agency does not amend its ordinance or adopt a resolution with specified findings.

(6) This bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

~~(7) Existing law authorizes a local agency to adopt an ordinance providing for the creation of junior accessory dwelling units in single-family residential zones, and requires a local agency to ministerially approve or deny an application for a junior accessory dwelling unit within 120 days of submission of the application.~~

~~This~~

(7) This bill would ~~instead require a local agency to ministerially approve or deny an application for a junior accessory dwelling unit within 60 days from the date a local agency receives a completed application. The bill would~~ require a local agency that has not adopted an ordinance for the creation of junior accessory dwelling units to apply the same standards established by this bill for local agencies with ordinances.

(8) This bill would make other conforming changes, including revising definitions and changes clarifying that the above-specified provisions regulating accessory dwelling units and junior accessory dwelling units also apply to the creation of accessory dwelling units and junior accessory dwelling units on proposed structures to be constructed.

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

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

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

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

SECTION 1. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation

of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is attached or located within the living area of the proposed or existing primary dwelling, attached or located within an accessory structure, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) ~~The~~ *If there is an existing primary dwelling, the* total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the~~ proposed or~~ existing primary~~ dwelling living area or 1,200 square feet.~~ *dwelling.*

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is

converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application *to create an accessory dwelling unit or a junior accessory dwelling unit* shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use ~~permits,~~ *permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit* within 60 days from the date the local agency receives a completed ~~application.~~ *application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the*

permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency after January 1, 2017, shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet one or more of the requirements of this subdivision, that ordinance shall be null and void to the extent of such conflict on January 1, 2017, and that agency shall thereafter apply the applicable standards or standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency amends its ordinance to comply with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions

applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision ~~(a) within 60 days from the date the local agency receives a completed application.~~ *(a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.*

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, shall be established by ordinance for either attached or detached dwellings that does not

permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is ~~substantially~~ within the proposed or existing space of a single-family dwelling or accessory ~~structure, including, but not limited to, remodeling or reconstruction of an existing space with substantially~~ *structure and may include an expansion of not more than 150 square feet beyond* the same physical dimensions as the existing accessory structure. *An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.*

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, single-story accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) *(i)* Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial ~~approval,~~ *approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit,* the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within

the last five years, or, if the percolation test has been recertified, within the last 10 years.

~~(6)~~

(7) Subparagraphs (C) and (D) of paragraph (1) shall not apply to a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer ~~service.~~ *service, unless the accessory dwelling unit was constructed with a new single-family dwelling.*

(A) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity ~~charge.~~ *charge, unless the accessory dwelling unit was constructed with a new single-family home.*

(B) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(2) (A) The department may submit written findings to the local agency as to whether the ordinance complies with this section. If the department finds that the ordinance does not comply with this section, it shall notify the local agency that it is in violation of this section and shall provide the local agency a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend its ordinance to comply with this section.

(ii) Adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings.

(C) *(i)* If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(ii) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) As used in this section, the following terms apply:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means an existing, fixed structure, including, but not limited to, a garage, studio, pool house, or other similar structure.

(3) "Living area" means the interior habitable area of a dwelling unit, including basements and attics but does not include a garage or any accessory structure.

(4) "Local agency" means a city, county, or city and county, whether general law or chartered.

(5) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(6) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(7) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

~~(7)~~

(8) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(j) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

SEC. 2. Section 65852.22 of the Government Code is amended to read:

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family ~~residence, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ *residence.*

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

~~(A) A sink with a maximum waste line diameter of 1.5 inches.~~

~~(B)~~

(A) A cooking facility with ~~appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ *appliances.*

~~(C)~~

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for

that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. ~~A local agency shall issue a permit within 60 days from the date the local agency receives a completed application for a permit pursuant to this section.~~ *The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.* A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies

to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

SEC. 3. 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.

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LEAGUE OF CALIFORNIA CITIES

June 17, 2019

The Honorable Scott Wiener
Chair, Senate Housing Committee
State Capitol Building, Room 5100
Sacramento, CA 95814

RE: AB 68 (Ting) Accessory Dwelling Units
Oppose Unless Amended

Dear Senator Wiener:

The League of California Cities must respectfully oppose your AB 68 unless it is amended to address our key concerns. AB 68 would amend the statewide standards that apply to locally-adopted ordinances concerning accessory dwelling units (ADUs), even though the law was thoroughly revised in the 2016 Legislative Session. These revisions were a product of two carefully negotiated bills that only became effective in January 2017, with further amendments during the 2017 Legislative Session. All local agencies that worked in good faith to implement those laws would have to reopen their ordinances yet again to comply with the provisions of AB 68.

Loophole around Health and Safety Standards. Section 1 of the bill amends Government Code Section 65852.2 (e), thereby circumventing local ordinances that may exclude ADUs for criteria based on health and safety. Specifically, up to two new-construction ADUs on a parcel with a multifamily dwelling, unlimited ADUs converted from existing space with a multifamily building, a new-construction ADU on a parcel with a single family home, and conversions of existing space to create an ADU and JADU within a single family home or associated accessory structure would have to be allowed on any residential or mixed use parcel, irrespective of a local ordinance adopted pursuant to Government Code Section 65852.2 (a)(1)(A).

Prohibits replacement parking. When a garage, carport, or covered parking structure is demolished or converted into an ADU, AB 68 would prohibit a city from requiring replacement parking. This would only exacerbate existing parking conflicts because cities are currently prohibited from imposing parking requirements on new ADUs if they are within one-half mile of transit.

For the reasons stated above, the League of California Cities must oppose AB 68 unless it is amended to address our concerns. If you have any questions, please feel free to contact me at (916) 658-8264.

Sincerely,

Jason Rhine
Assistant Legislative Director

cc. The Honorable Philip Ting
Chair and Members, Senate Committee on Housing
Erin Riches, Consultant, Senate Committee on Housing
Doug Yoakam, Consultant, Senate Republican Caucus