

AMENDED IN SENATE AUGUST 19, 2016
AMENDED IN ASSEMBLY APRIL 14, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2442

Introduced by Assembly Member Holden

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2442, as amended, Holden. Density bonuses.

The Planning and Zoning Law requires, when an applicant proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer 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, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would additionally require a density bonus to be provided to a developer that agrees to construct a housing development that includes at least 10% of the total units for transitional foster youth, disabled veterans, or homeless persons, as defined. The bill would require that these units be subject to a recorded affordability restriction of 55 years and be provided at the same affordability level as very low income units. The bill would set the density bonus at 20% of the number

of these units. By increasing the duties of local agencies, 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.

This bill would incorporate additional changes to Section 65915 of the Government Code, proposed by AB 2501 and AB 2556, that would become operative only if this bill and either or both of those bills are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last

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

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

1 SECTION 1. Section 65915 of the Government Code is
2 amended to read:

3 65915. (a) When an applicant seeks a density bonus for a
4 housing development within, or for the donation of land for housing
5 within, the jurisdiction of a city, county, or city and county, that
6 local government shall provide the applicant with incentives or
7 concessions for the production of housing units and child care
8 facilities as prescribed in this section. All cities, counties, or cities
9 and counties shall adopt an ordinance that specifies how
10 compliance with this section will be implemented. Failure to adopt
11 an ordinance shall not relieve a city, county, or city and county
12 from complying with this section.

13 (b) (1) A city, county, or city and county shall grant one density
14 bonus, the amount of which shall be as specified in subdivision
15 (f), and incentives or concessions, as described in subdivision (d),
16 when an applicant for a housing development seeks and agrees to
17 construct a housing development, excluding any units permitted
18 by the density bonus awarded pursuant to this section, that will
19 contain at least any one of the following:

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

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

4 (C) A senior citizen housing development, as defined in Sections
5 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
6 residency based on age requirements for housing for older persons
7 pursuant to Section 798.76 or 799.5 of the Civil Code.

8 (D) Ten percent of the total dwelling units in a common interest
9 development, as defined in Section 4100 of the Civil Code, for
10 persons and families of moderate income, as defined in Section
11 50093 of the Health and Safety Code, provided that all units in the
12 development are offered to the public for purchase.

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

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

26 (3) For the purposes of this section, “total units” or “total
27 dwelling units” does not include units added by a density bonus
28 awarded pursuant to this section or any local law granting a greater
29 density bonus.

30 (c) (1) An applicant shall agree to, and the city, county, or city
31 and county shall ensure, the continued affordability of all very low
32 and low-income rental units that qualified the applicant for the
33 award of the density bonus for 55 years or a longer period of time
34 if required by the construction or mortgage financing assistance
35 program, mortgage insurance program, or rental subsidy program.
36 Rents for the lower income density bonus units shall be set at an
37 affordable rent as defined in Section 50053 of the Health and Safety
38 Code.

39 (2) An applicant shall agree to, and the city, county, or city and
40 county shall ensure that, the initial occupant of all for-sale units

1 that qualified the applicant for the award of the density bonus are
2 persons and families of very low, low, or moderate income, as
3 required, and that the units are offered at an affordable housing
4 cost, as that cost is defined in Section 50052.5 of the Health and
5 Safety Code. The local government shall enforce an equity sharing
6 agreement, unless it is in conflict with the requirements of another
7 public funding source or law. The following apply to the equity
8 sharing agreement:

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

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

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

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

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

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

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

9 (i) If any dwelling units described in subparagraph (A) are
10 occupied on the date of application, the proposed housing
11 development shall provide at least the same number of units of
12 equivalent size or type, or both, to be made available at affordable
13 rent or affordable housing cost to, and occupied by, persons and
14 families in the same or lower income category as those households
15 in occupancy. For unoccupied dwelling units described in
16 subparagraph (A) in a development with occupied units, the
17 proposed housing development shall provide units of equivalent
18 size or type, or both, to be made available at affordable rent or
19 affordable housing cost to, and occupied by, persons and families
20 in the same or lower income category in the same proportion of
21 affordability as the occupied units. All replacement calculations
22 resulting in fractional units shall be rounded up to the next whole
23 number. If the replacement units will be rental dwelling units,
24 these units shall be subject to a recorded affordability restriction
25 for at least 55 years. If the proposed development is for-sale units,
26 the units replaced shall be subject to paragraph (2).

27 (ii) If all dwelling units described in subparagraph (A) have
28 been vacated or demolished within the five-year period preceding
29 the application, the proposed housing development shall provide
30 at least the same number of units of equivalent size or type, or
31 both, as existed at the highpoint of those units in the five-year
32 period preceding the application to be made available at affordable
33 rent or affordable housing cost to, and occupied by, persons and
34 families in the same or lower income category as those persons
35 and families in occupancy at that time, if known. If the incomes
36 of the persons and families in occupancy at the highpoint is not
37 known, then one-half of the required units shall be made available
38 at affordable rent or affordable housing cost to, and occupied by,
39 very low income persons and families and one-half of the required
40 units shall be made available for rent at affordable housing costs

1 to, and occupied by, low-income persons and families. All
2 replacement calculations resulting in fractional units shall be
3 rounded up to the next whole number. If the replacement units will
4 be rental dwelling units, these units shall be subject to a recorded
5 affordability restriction for at least 55 years. If the proposed
6 development is for-sale units, the units replaced shall be subject
7 to paragraph (2).

8 (C) Paragraph (3) of subdivision (c) does not apply to an
9 applicant seeking a density bonus for a proposed housing
10 development if his or her application was submitted to, or
11 processed by, a city, county, or city and county before January 1,
12 2015.

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

21 (A) The concession or incentive is not required in order to
22 provide for affordable housing costs, as defined in Section 50052.5
23 of the Health and Safety Code, or for rents for the targeted units
24 to be set as specified in subdivision (c).

25 (B) The concession or incentive would have a specific adverse
26 impact, as defined in paragraph (2) of subdivision (d) of Section
27 65589.5, upon public health and safety or the physical environment
28 or on any real property that is listed in the California Register of
29 Historical Resources and for which there is no feasible method to
30 satisfactorily mitigate or avoid the specific adverse impact without
31 rendering the development unaffordable to low- and
32 moderate-income households.

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

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

37 (A) One incentive or concession for projects that include at least
38 10 percent of the total units for lower income households, at least
39 5 percent for very low income households, or at least 10 percent

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

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

8 (C) Three incentives or concessions for projects that include at
9 least 30 percent of the total units for lower income households, at
10 least 15 percent for very low income households, or at least 30
11 percent for persons and families of moderate income in a common
12 interest development.

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

31 (e) (1) In no case may a city, county, or city and county apply
32 any development standard that will have the effect of physically
33 precluding the construction of a development meeting the criteria
34 of subdivision (b) at the densities or with the concessions or
35 incentives permitted by this section. An applicant may submit to
36 a city, county, or city and county a proposal for the waiver or
37 reduction of development standards that will have the effect of
38 physically precluding the construction of a development meeting
39 the criteria of subdivision (b) at the densities or with the
40 concessions or incentives permitted under this section, and may

1 request a meeting with the city, county, or city and county. If a
 2 court finds that the refusal to grant a waiver or reduction of
 3 development standards is in violation of this section, the court
 4 shall award the plaintiff reasonable attorney’s fees and costs of
 5 suit. Nothing in this subdivision shall be interpreted to require a
 6 local government to waive or reduce development standards if the
 7 waiver or reduction would have a specific, adverse impact, as
 8 defined in paragraph (2) of subdivision (d) of Section 65589.5,
 9 upon health, safety, or the physical environment, and for which
 10 there is no feasible method to satisfactorily mitigate or avoid the
 11 specific adverse impact. Nothing in this subdivision shall be
 12 interpreted to require a local government to waive or reduce
 13 development standards that would have an adverse impact on any
 14 real property that is listed in the California Register of Historical
 15 Resources, or to grant any waiver or reduction that would be
 16 contrary to state or federal law.

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

21 (f) For the purposes of this chapter, “density bonus” means a
 22 density increase over the otherwise maximum allowable residential
 23 density as of the date of application by the applicant to the city,
 24 county, or city and county. The applicant may elect to accept a
 25 lesser percentage of density bonus. The amount of density bonus
 26 to which the applicant is entitled shall vary according to the amount
 27 by which the percentage of affordable housing units exceeds the
 28 percentage established in subdivision (b).

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

32	Percentage Low-Income Units	Percentage Density
33		Bonus
34		
35	10	20
36	11	21.5
37	12	23
38	13	24.5
39	14	26
40	15	27.5

1	17	30.5
2	18	32
3	19	33.5
4	20	35

5
6 (2) For housing developments meeting the criteria of
7 subparagraph (B) of paragraph (1) of subdivision (b), the density
8 bonus shall be calculated as follows:

10	Percentage Very Low Income Units	Percentage Density Bonus
11	5	20
12	6	22.5
13	7	25
14	8	27.5
15	9	30
16	10	32.5
17	11	35

18
19 (3) (A) For housing developments meeting the criteria of
20 subparagraph (C) of paragraph (1) of subdivision (b), the density
21 bonus shall be 20 percent of the number of senior housing units.

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

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

30	Percentage Moderate-Income Units	Percentage Density Bonus
31	10	5
32	11	6
33	12	7
34	13	8
35	14	9
36	15	10
37	16	11
38	17	12
39	18	13
40	19	14

1	20	15
2	21	16
3	22	17
4	23	18
5	24	19
6	25	20
7	26	21
8	27	22
9	28	23
10	29	24
11	30	25
12	31	26
13	32	27
14	33	28
15	34	29
16	35	30
17	36	31
18	37	32
19	38	33
20	39	34
21	40	35
22		

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

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

34	Percentage Very Low Income	Percentage Density Bonus
35		
36	10	15
37	11	16
38	12	17
39	13	18
40	14	19

1	15	20
2	16	21
3	17	22
4	18	23
5	19	24
6	20	25
7	21	26
8	22	27
9	23	28
10	24	29
11	25	30
12	26	31
13	27	32
14	28	33
15	29	34
16	30	35
17		

18 (2) This increase shall be in addition to any increase in density
 19 mandated by subdivision (b), up to a maximum combined mandated
 20 density increase of 35 percent if an applicant seeks an increase
 21 pursuant to both this subdivision and subdivision (b). All density
 22 calculations resulting in fractional units shall be rounded up to the
 23 next whole number. Nothing in this subdivision shall be construed
 24 to enlarge or diminish the authority of a city, county, or city and
 25 county to require a developer to donate land as a condition of
 26 development. An applicant shall be eligible for the increased
 27 density bonus described in this subdivision if all of the following
 28 conditions are met:

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

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

37 (C) The transferred land is at least one acre in size or of
 38 sufficient size to permit development of at least 40 units, has the
 39 appropriate general plan designation, is appropriately zoned with
 40 appropriate development standards for development at the density

1 described in paragraph (3) of subdivision (c) of Section 65583.2,
2 and is or will be served by adequate public facilities and
3 infrastructure.

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

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

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

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

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

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

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

36 (B) An additional concession or incentive that contributes
37 significantly to the economic feasibility of the construction of the
38 child care facility.

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

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

8 (B) Of the children who attend the child care facility, the
9 children of very low income households, lower income households,
10 or families of moderate income shall equal a percentage that is
11 equal to or greater than the percentage of dwelling units that are
12 required for very low income households, lower income
13 households, or families of moderate income pursuant to subdivision
14 (b).

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

20 (4) “Child care facility,” as used in this section, means a child
21 day care facility other than a family day care home, including, but
22 not limited to, infant centers, preschools, extended day care
23 facilities, and schoolage child care centers.

24 (i) “Housing development,” as used in this section, means a
25 development project for five or more residential units. For the
26 purposes of this section, “housing development” also includes a
27 subdivision or common interest development, as defined in Section
28 4100 of the Civil Code, approved by a city, county, or city and
29 county and consists of residential units or unimproved residential
30 lots and either a project to substantially rehabilitate and convert
31 an existing commercial building to residential use or the substantial
32 rehabilitation of an existing multifamily dwelling, as defined in
33 subdivision (d) of Section 65863.4, where the result of the
34 rehabilitation would be a net increase in available residential units.
35 For the purpose of calculating a density bonus, the residential units
36 shall be on contiguous sites that are the subject of one development
37 application, but do not have to be based upon individual
38 subdivision maps or parcels. The density bonus shall be permitted
39 in geographic areas of the housing development other than the
40 areas where the units for the lower income households are located.

1 (j) (1) The granting of a concession or incentive shall not be
2 interpreted, in and of itself, to require a general plan amendment,
3 local coastal plan amendment, zoning change, or other discretionary
4 approval. This provision is declaratory of existing law.

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

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

11 (1) A reduction in site development standards or a modification
12 of zoning code requirements or architectural design requirements
13 that exceed the minimum building standards approved by the
14 California Building Standards Commission as provided in Part 2.5
15 (commencing with Section 18901) of Division 13 of the Health
16 and Safety Code, including, but not limited to, a reduction in
17 setback and square footage requirements and in the ratio of
18 vehicular parking spaces that would otherwise be required that
19 results in identifiable, financially sufficient, and actual cost
20 reductions.

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

27 (3) Other regulatory incentives or concessions proposed by the
28 developer or the city, county, or city and county that result in
29 identifiable, financially sufficient, and actual cost reductions.

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

34 (m) This section does not supersede or in any way alter or lessen
35 the effect or application of the California Coastal Act of 1976
36 (Division 20 (commencing with Section 30000) of the Public
37 Resources Code).

38 (n) If permitted by local ordinance, nothing in this section shall
39 be construed to prohibit a city, county, or city and county from
40 granting a density bonus greater than what is described in this

1 section for a development that meets the requirements of this
2 section or from granting a proportionately lower density bonus
3 than what is required by this section for developments that do not
4 meet the requirements of this section.

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

7 (1) “Development standard” includes a site or construction
8 condition, including, but not limited to, a height limitation, a
9 setback requirement, a floor area ratio, an onsite open-space
10 requirement, or a parking ratio that applies to a residential
11 development pursuant to any ordinance, general plan element,
12 specific plan, charter, or other local condition, law, policy,
13 resolution, or regulation.

14 (2) “Maximum allowable residential density” means the density
15 allowed under the zoning ordinance and land use element of the
16 general plan, or if a range of density is permitted, means the
17 maximum allowable density for the specific zoning range and land
18 use element of the general plan applicable to the project. Where
19 the density allowed under the zoning ordinance is inconsistent
20 with the density allowed under the land use element of the general
21 plan, the general plan density shall prevail.

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

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

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

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

30 (2) Notwithstanding paragraph (1), if a development includes
31 the maximum percentage of low- or very low income units
32 provided for in paragraphs (1) and (2) of subdivision (f) and is
33 located within one-half mile of a major transit stop, as defined in
34 subdivision (b) of Section 21155 of the Public Resources Code,
35 and there is unobstructed access to the major transit stop from the
36 development, then, upon the request of the developer, a city,
37 county, or city and county shall not impose a vehicular parking
38 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
39 spaces per bedroom. For purposes of this subdivision, a
40 development shall have unobstructed access to a major transit stop

1 if a resident is able to access the major transit stop without
2 encountering natural or constructed impediments.

3 (3) Notwithstanding paragraph (1), if a development consists
4 solely of rental units, exclusive of a manager's unit or units, with
5 an affordable housing cost to lower income families, as provided
6 in Section 50052.5 of the Health and Safety Code, then, upon the
7 request of the developer, a city, county, or city and county shall
8 not impose a vehicular parking ratio, inclusive of handicapped and
9 guest parking, that exceeds the following ratios:

10 (A) If the development is located within one-half mile of a major
11 transit stop, as defined in subdivision (b) of Section 21155 of the
12 Public Resources Code, and there is unobstructed access to the
13 major transit stop from the development, the ratio shall not exceed
14 0.5 spaces per unit.

15 (B) If the development is a for-rent housing development for
16 individuals who are 62 years of age or older that complies with
17 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
18 0.5 spaces per unit. The development shall have either paratransit
19 service or unobstructed access, within one-half mile, to fixed bus
20 route service that operates at least eight times per day.

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

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

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

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

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

17 *SEC. 1.3. Section 65915 of the Government Code is amended*
18 *to read:*

19 65915. (a) (1) When an applicant seeks a density bonus for
20 a housing development within, or for the donation of land for
21 housing within, the jurisdiction of a city, county, or city and county,
22 that local government shall ~~provide the applicant with incentives~~
23 ~~or concessions for the production of housing units and child care~~
24 ~~facilities as prescribed in this section. All cities, counties, or cities~~
25 ~~and counties comply with this section. A city, county, or city and~~
26 ~~county shall adopt an ordinance that specifies how compliance~~
27 ~~with this section will be implemented. Failure to adopt an ordinance~~
28 ~~shall not relieve a city, county, or city and county from complying~~
29 ~~with this section.~~

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

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

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

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

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

12 (b) (1) A city, county, or city and county shall grant one density
13 bonus, the amount of which shall be as specified in subdivision
14 (f), ~~and~~ *and, if requested by the applicant and consistent with the*
15 *applicable requirements of this section, incentives or concessions,*
16 *as described in subdivision (d), waivers or reductions of*
17 *development standards, as described in subdivision (e), and*
18 *parking ratios, as described in subdivision (p), when an applicant*
19 *for a housing development seeks and agrees to construct a housing*
20 *development, excluding any units permitted by the density bonus*
21 *awarded pursuant to this section, that will contain at least any one*
22 *of the following:*

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

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

29 (C) *A senior citizen housing development, as defined in Sections*
30 *51.3 and 51.12 of the Civil Code, or a mobilehome park that limits*
31 *residency based on age requirements for housing for older persons*
32 *pursuant to Section 798.76 or 799.5 of the Civil Code.*

33 (D) *Ten percent of the total dwelling units in a common interest*
34 *development, as defined in Section 4100 of the Civil Code, for*
35 *persons and families of moderate income, as defined in Section*
36 *50093 of the Health and Safety Code, provided that all units in the*
37 *development are offered to the public for purchase.*

38 (E) *Ten percent of the total units of a housing development for*
39 *transitional foster youth, as defined in Section 66025.9 of the*
40 *Education Code, disabled veterans, as defined in Section 18541,*

1 *or homeless persons, as defined in the federal McKinney-Vento*
2 *Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units*
3 *described in this subparagraph shall be subject to a recorded*
4 *affordability restriction of 55 years and shall be provided at the*
5 *same affordability level as very low income units.*

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

11 (3) For the purposes of this section, “total units” or “total
12 dwelling units” does not include units added by a density bonus
13 awarded pursuant to this section or any local law granting a greater
14 density bonus.

15 (c) (1) An applicant shall agree to, and the city, county, or city
16 and county shall ensure, the continued affordability of all very low
17 and low-income rental units that qualified the applicant for the
18 award of the density bonus for 55 years or a longer period of time
19 if required by the construction or mortgage financing assistance
20 program, mortgage insurance program, or rental subsidy program.
21 Rents for the lower income density bonus units shall be set at an
22 affordable rent as defined in Section 50053 of the Health and Safety
23 Code.

24 (2) An applicant shall agree to, and the city, county, or city and
25 county shall ensure that, the initial occupant of all for-sale units
26 that qualified the applicant for the award of the density bonus are
27 persons and families of very low, low, or moderate income, as
28 required, and that the units are offered at an affordable housing
29 cost, as that cost is defined in Section 50052.5 of the Health and
30 Safety Code. The local government shall enforce an equity sharing
31 agreement, unless it is in conflict with the requirements of another
32 public funding source or law. The following apply to the equity
33 sharing agreement:

34 (A) Upon resale, the seller of the unit shall retain the value of
35 any improvements, the downpayment, and the seller’s proportionate
36 share of appreciation. The local government shall recapture any
37 initial subsidy, as defined in subparagraph (B), and its proportionate
38 share of appreciation, as defined in subparagraph (C), which
39 amount shall be used within five years for any of the purposes

1 described in subdivision (e) of Section 33334.2 of the Health and
2 Safety Code that promote home ownership.

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

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

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

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

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

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

34 (i) If any dwelling units described in subparagraph (A) are
35 occupied on the date of application, the proposed housing
36 development shall provide at least the same number of units of
37 equivalent size or type, or both, to be made available at affordable
38 rent or affordable housing cost to, and occupied by, persons and
39 families in the same or lower income category as those households
40 in occupancy. For unoccupied dwelling units described in

1 subparagraph (A) in a development with occupied units, the
2 proposed housing development shall provide units of equivalent
3 size or type, or both, to be made available at affordable rent or
4 affordable housing cost to, and occupied by, persons and families
5 in the same or lower income category in the same proportion of
6 affordability as the occupied units. All replacement calculations
7 resulting in fractional units shall be rounded up to the next whole
8 number. If the replacement units will be rental dwelling units,
9 these units shall be subject to a recorded affordability restriction
10 for at least 55 years. If the proposed development is for-sale units,
11 the units replaced shall be subject to paragraph (2).

12 (ii) If all dwelling units described in subparagraph (A) have
13 been vacated or demolished within the five-year period preceding
14 the application, the proposed housing development shall provide
15 at least the same number of units of equivalent size or type, or
16 both, as existed at the highpoint of those units in the five-year
17 period preceding the application to be made available at affordable
18 rent or affordable housing cost to, and occupied by, persons and
19 families in the same or lower income category as those persons
20 and families in occupancy at that time, if known. If the incomes
21 of the persons and families in occupancy at the highpoint is not
22 known, then one-half of the required units shall be made available
23 at affordable rent or affordable housing cost to, and occupied by,
24 very low income persons and families and one-half of the required
25 units shall be made available for rent at affordable housing costs
26 to, and occupied by, low-income persons and families. All
27 replacement calculations resulting in fractional units shall be
28 rounded up to the next whole number. If the replacement units will
29 be rental dwelling units, these units shall be subject to a recorded
30 affordability restriction for at least 55 years. If the proposed
31 development is for-sale units, the units replaced shall be subject
32 to paragraph (2).

33 (C) Paragraph (3) of subdivision (c) does not apply to an
34 applicant seeking a density bonus for a proposed housing
35 development if his or her application was submitted to, or
36 processed by, a city, county, or city and county before January 1,
37 2015.

38 (d) (1) An applicant for a density bonus pursuant to subdivision
39 (b) may submit to a city, county, or city and county a proposal for
40 the specific incentives or concessions that the applicant requests

1 pursuant to this section, and may request a meeting with the city,
 2 county, or city and county. The city, county, or city and county
 3 shall grant the concession or incentive requested by the applicant
 4 unless the city, county, or city and county makes a written finding,
 5 based upon substantial evidence, of any of the following:

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

11 (B) The concession or incentive would have a specific adverse
 12 impact, as defined in paragraph (2) of subdivision (d) of Section
 13 65589.5, upon public health and safety or the physical environment
 14 or on any real property that is listed in the California Register of
 15 Historical Resources and for which there is no feasible method to
 16 satisfactorily mitigate or avoid the specific adverse impact without
 17 rendering the development unaffordable to ~~low-~~ *low-income* and
 18 moderate-income households.

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

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

23 (A) One incentive or concession for projects that include at least
 24 10 percent of the total units for lower income households, at least
 25 5 percent for very low income households, or at least 10 percent
 26 for persons and families of moderate income in a common interest
 27 development.

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

33 (C) Three incentives or concessions for projects that include at
 34 least 30 percent of the total units for lower income households, at
 35 least 15 percent for very low income households, or at least 30
 36 percent for persons and families of moderate income in a common
 37 interest development.

38 (3) The applicant may initiate judicial proceedings if the city,
 39 county, or city and county refuses to grant a requested density
 40 bonus, incentive, or concession. If a court finds that the refusal to

1 grant a requested density bonus, incentive, or concession is in
2 violation of this section, the court shall award the plaintiff
3 reasonable attorney’s fees and costs of suit. Nothing in this
4 subdivision shall be interpreted to require a local government to
5 grant an incentive or concession that has a specific, adverse impact,
6 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
7 upon health, safety, or the physical environment, and for which
8 there is no feasible method to satisfactorily mitigate or avoid the
9 specific adverse impact. Nothing in this subdivision shall be
10 interpreted to require a local government to grant an incentive or
11 concession that would have an adverse impact on any real property
12 that is listed in the California Register of Historical Resources.
13 The city, county, or city and county shall establish procedures for
14 carrying out this section, that shall include legislative body
15 approval of the means of compliance with this section.

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

18 (e) (1) In no case may a city, county, or city and county apply
19 any development standard that will have the effect of physically
20 precluding the construction of a development meeting the criteria
21 of subdivision (b) at the densities or with the concessions or
22 incentives permitted by this section. An applicant may submit to
23 a city, county, or city and county a proposal for the waiver or
24 reduction of development standards that will have the effect of
25 physically precluding the construction of a development meeting
26 the criteria of subdivision (b) at the densities or with the
27 concessions or incentives permitted under this section, and may
28 request a meeting with the city, county, or city and county. If a
29 court finds that the refusal to grant a waiver or reduction of
30 development standards is in violation of this section, the court
31 shall award the plaintiff reasonable attorney’s fees and costs of
32 suit. Nothing in this subdivision shall be interpreted to require a
33 local government to waive or reduce development standards if the
34 waiver or reduction would have a specific, adverse impact, as
35 defined in paragraph (2) of subdivision (d) of Section 65589.5,
36 upon health, safety, or the physical environment, and for which
37 there is no feasible method to satisfactorily mitigate or avoid the
38 specific adverse impact. Nothing in this subdivision shall be
39 interpreted to require a local government to waive or reduce
40 development standards that would have an adverse impact on any

1 real property that is listed in the California Register of Historical
2 Resources, or to grant any waiver or reduction that would be
3 contrary to state or federal law.

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

8 (f) For the purposes of this chapter, “density bonus” means a
9 density increase over the otherwise maximum allowable *gross*
10 residential density as of the date of application by the applicant to
11 the city, county, or city and ~~county~~. ~~The applicant may elect to~~
12 ~~accept county, or, if elected by the applicant,~~ a lesser percentage
13 of density ~~bonus~~: *increase, including, but not limited to, no increase*
14 *in density*. The amount of density ~~bonus~~ *increase* to which the
15 applicant is entitled shall vary according to the amount by which
16 the percentage of affordable housing units exceeds the percentage
17 established in subdivision (b).

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

21	22 Percentage Low-Income Units	23 Percentage Density 24 Bonus
25	10	20
26	11	21.5
27	12	23
28	13	24.5
29	14	26
30	15	27.5
31	17	30.5
32	18	32
33	19	33.5
34	20	35

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

38	39 Percentage Very Low Income Units	40 Percentage Density Bonus
	5	20

1	6	22.5
2	7	25
3	8	27.5
4	9	30
5	10	32.5
6	11	35

7
8 (3) (A) For housing developments meeting the criteria of
9 subparagraph (C) of paragraph (1) of subdivision (b), the density
10 bonus shall be 20 percent of the number of senior housing units.

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

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

18	Percentage Moderate-Income Units	Percentage Density Bonus
19	10	5
20	11	6
21	12	7
22	13	8
23	14	9
24	15	10
25	16	11
26	17	12
27	18	13
28	19	14
29	20	15
30	21	16
31	22	17
32	23	18
33	24	19
34	25	20
35	26	21
36	27	22
37	28	23
38	29	24
39	30	25
40		

1	31	26
2	32	27
3	33	28
4	34	29
5	35	30
6	36	31
7	37	32
8	38	33
9	39	34
10	40	35

11
 12 (5) All density calculations resulting in fractional units shall be
 13 rounded up to the next whole number. The granting of a density
 14 bonus shall not *require, or* be interpreted, in and of itself, to require
 15 a general plan amendment, local coastal plan amendment, zoning
 16 change, or other discretionary approval.

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

23	Percentage Very Low Income	Percentage Density Bonus
24		
25	10	15
26	11	16
27	12	17
28	13	18
29	14	19
30	15	20
31	16	21
32	17	22
33	18	23
34	19	24
35	20	25
36	21	26
37	22	27
38	23	28
39	24	29
40	25	30

1	26	31
2	27	32
3	28	33
4	29	34
5	30	35
6		

7 (2) This increase shall be in addition to any increase in density
8 mandated by subdivision (b), up to a maximum combined mandated
9 density increase of 35 percent if an applicant seeks an increase
10 pursuant to both this subdivision and subdivision (b). All density
11 calculations resulting in fractional units shall be rounded up to the
12 next whole number. Nothing in this subdivision shall be construed
13 to enlarge or diminish the authority of a city, county, or city and
14 county to require a developer to donate land as a condition of
15 development. An applicant shall be eligible for the increased
16 density bonus described in this subdivision if all of the following
17 conditions are met:

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

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

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

33 (D) The transferred land shall have all of the permits and
34 approvals, other than building permits, necessary for the
35 development of the very low income housing units on the
36 transferred land, not later than the date of approval of the final
37 subdivision map, parcel map, or residential development
38 application, except that the local government may subject the
39 proposed development to subsequent design review to the extent

1 authorized by subdivision (i) of Section 65583.2 if the design is
2 not reviewed by the local government prior to the time of transfer.

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

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

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

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

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

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

26 (B) An additional concession or incentive that contributes
27 significantly to the economic feasibility of the construction of the
28 child care facility.

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

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

36 (B) Of the children who attend the child care facility, the
37 children of very low income households, lower income households,
38 or families of moderate income shall equal a percentage that is
39 equal to or greater than the percentage of dwelling units that are
40 required for very low income households, lower income

1 households, or families of moderate income pursuant to subdivision
2 (b).

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

8 (4) “Child care facility,” as used in this section, means a child
9 day care facility other than a family day care home, including, but
10 not limited to, infant centers, preschools, extended day care
11 facilities, and schoolage child care centers.

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

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

38 (2) Except as provided in subdivisions (d) and (e), the granting
39 of a density bonus shall *require or* not be interpreted to require

1 the waiver of a local ordinance or provisions of a local ordinance
2 unrelated to development standards.

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

5 (1) A reduction in site development standards or a modification
6 of zoning code requirements or architectural design requirements
7 that exceed the minimum building standards approved by the
8 California Building Standards Commission as provided in Part 2.5
9 (commencing with Section 18901) of Division 13 of the Health
10 and Safety Code, including, but not limited to, a reduction in
11 setback and square footage requirements and in the ratio of
12 vehicular parking spaces that would otherwise be required that
13 results in ~~identifiable, financially sufficient, identifiable~~ and actual
14 cost ~~reductions~~. *reductions, to provide for affordable housing costs,*
15 *as defined in Section 50052.5 of the Health and Safety Code, or*
16 *for rents for the targeted units to be set as specified in subdivision*
17 *(c).*

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

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

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

34 (m) This section does not supersede or in any way alter or lessen
35 the effect or application of the California Coastal Act of 1976
36 (Division 20 (commencing with Section 30000) of the Public
37 Resources Code).

38 (n) If permitted by local ordinance, nothing in this section shall
39 be construed to prohibit a city, county, or city and county from
40 granting a density bonus greater than what is described in this

1 section for a development that meets the requirements of this
2 section or from granting a proportionately lower density bonus
3 than what is required by this section for developments that do not
4 meet the requirements of this section.

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

7 (1) “Development standard” includes a site or construction
8 condition, including, but not limited to, a height limitation, a
9 setback requirement, a floor area ratio, an onsite open-space
10 requirement, or a parking ratio that applies to a residential
11 development pursuant to any ordinance, general plan element,
12 specific plan, charter, or other local condition, law, policy,
13 resolution, or regulation.

14 (2) “Maximum allowable residential density” means the density
15 allowed under the zoning ordinance and land use element of the
16 general plan, ~~or~~ if a range of density is permitted, means the
17 maximum allowable density for the specific zoning range and land
18 use element of the general plan applicable to the project. Where
19 the density allowed under the zoning ordinance is inconsistent
20 with the density allowed under the land use element of the general
21 plan, the general plan density shall prevail.

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

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

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

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

30 (2) Notwithstanding paragraph (1), if a development includes
31 the maximum percentage of ~~low-~~ *low-income* or very low income
32 units provided for in paragraphs (1) and (2) of subdivision (f) and
33 is located within one-half mile of a major transit stop, as defined
34 in subdivision (b) of Section 21155 of the Public Resources Code,
35 and there is unobstructed access to the major transit stop from the
36 development, then, upon the request of the developer, a city,
37 county, or city and county shall not impose a vehicular parking
38 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
39 spaces per bedroom. For purposes of this subdivision, a
40 development shall have unobstructed access to a major transit stop

1 if a resident is able to access the major transit stop without
 2 encountering natural or constructed impediments.

3 (3) Notwithstanding paragraph (1), if a development consists
 4 solely of rental units, exclusive of a manager’s unit or units, with
 5 an affordable housing cost to lower income families, as provided
 6 in Section 50052.5 of the Health and Safety Code, then, upon the
 7 request of the developer, a city, county, or city and county shall
 8 not impose a vehicular parking ratio, inclusive of handicapped and
 9 guest parking, that exceeds the following ratios:

10 (A) If the development is located within one-half mile of a major
 11 transit stop, as defined in subdivision (b) of Section 21155 of the
 12 Public Resources Code, and there is unobstructed access to the
 13 major transit stop from the development, the ratio shall not exceed
 14 0.5 spaces per unit.

15 (B) If the development is a for-rent housing development for
 16 individuals who are 62 years of age or older that complies with
 17 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
 18 0.5 spaces per unit. The development shall have either paratransit
 19 service or unobstructed access, within one-half mile, to fixed bus
 20 route service that operates at least eight times per day.

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

27 (4) If the total number of parking spaces required for a
 28 development is other than a whole number, the number shall be
 29 rounded up to the next whole number. For purposes of this
 30 subdivision, a development may provide ~~on-site~~ onsite parking
 31 through tandem parking or uncovered parking, but not through
 32 ~~on-street~~ onstreet parking.

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

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

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

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

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

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

28 *SEC. 1.5. Section 65915 of the Government Code is amended*
29 *to read:*

30 65915. (a) When an applicant seeks a density bonus for a
31 housing development within, or for the donation of land for housing
32 within, the jurisdiction of a city, county, or city and county, that
33 local government shall provide the applicant with incentives or
34 concessions for the production of housing units and child care
35 facilities as prescribed in this section. ~~All cities, counties, or cities~~
36 ~~and counties~~ *A city, county, or city and county shall adopt an*
37 *ordinance that specifies how compliance with this section will be*
38 *implemented. Failure to adopt an ordinance shall not relieve a city,*
39 *county, or city and county from complying with this section.*

1 (b) (1) A city, county, or city and county shall grant one density
 2 bonus, the amount of which shall be as specified in subdivision
 3 (f), and incentives or concessions, as described in subdivision (d),
 4 when an applicant for a housing development seeks and agrees to
 5 construct a housing development, excluding any units permitted
 6 by the density bonus awarded pursuant to this section, that will
 7 contain at least any one of the following:

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

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

14 (C) A senior citizen housing development, as defined in Sections
 15 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
 16 residency based on age requirements for housing for older persons
 17 pursuant to Section 798.76 or 799.5 of the Civil Code.

18 (D) Ten percent of the total dwelling units in a common interest
 19 development, as defined in Section 4100 of the Civil Code, for
 20 persons and families of moderate income, as defined in Section
 21 50093 of the Health and Safety Code, provided that all units in the
 22 development are offered to the public for purchase.

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

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

36 (3) For the purposes of this section, “total units” or “total
 37 dwelling units” does not include units added by a density bonus
 38 awarded pursuant to this section or any local law granting a greater
 39 density bonus.

1 (c) (1) An applicant shall agree to, and the city, county, or city
2 and county shall ensure, the continued affordability of all very low
3 and low-income rental units that qualified the applicant for the
4 award of the density bonus for 55 years or a longer period of time
5 if required by the construction or mortgage financing assistance
6 program, mortgage insurance program, or rental subsidy program.
7 Rents for the lower income density bonus units shall be set at an
8 affordable rent as defined in Section 50053 of the Health and Safety
9 Code.

10 (2) An applicant shall agree to, and the city, county, or city and
11 county shall ensure that, the initial occupant of all for-sale units
12 that qualified the applicant for the award of the density bonus are
13 persons and families of very low, low, or moderate income, as
14 required, and that the units are offered at an affordable housing
15 cost, as that cost is defined in Section 50052.5 of the Health and
16 Safety Code. The local government shall enforce an equity sharing
17 agreement, unless it is in conflict with the requirements of another
18 public funding source or law. The following apply to the equity
19 sharing agreement:

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

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

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

39 (3) (A) An applicant shall be ineligible for a density bonus or
40 any other incentives or concessions under this section if the housing

1 development is proposed on any property that includes a parcel or
2 parcels on which rental dwelling units are or, if the dwelling units
3 have been vacated or demolished in the five-year period preceding
4 the application, have been subject to a recorded covenant,
5 ordinance, or law that restricts rents to levels affordable to persons
6 and families of lower or very low income; subject to any other
7 form of rent or price control through a public entity's valid exercise
8 of its police power; or occupied by lower or very low income
9 households, unless the proposed housing development replaces
10 those units, and either of the following applies:

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

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

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

19 (i) If any dwelling units described in subparagraph (A) are
20 occupied on the date of application, the proposed housing
21 development shall provide at least the same number of units of
22 equivalent size ~~or type, or both~~, to be made available at affordable
23 rent or affordable housing cost to, and occupied by, persons and
24 families in the same or lower income category as those households
25 in occupancy. *If the income category of the household in occupancy*
26 *is not known, it shall be rebuttably presumed that lower income*
27 *renter households occupied these units in the same proportion of*
28 *lower income renter households to all renter households within*
29 *the jurisdiction, as determined by the most recently available data*
30 *from the United States Department of Housing and Urban*
31 *Development's Comprehensive Housing Affordability Strategy*
32 *database. For unoccupied dwelling units described in subparagraph*
33 *(A) in a development with occupied units, the proposed housing*
34 *development shall provide units of equivalent size ~~or type, or both~~,*
35 *to be made available at affordable rent or affordable housing cost*
36 *to, and occupied by, persons and families in the same or lower*
37 *income category ~~in the same proportion of affordability as the~~*
38 *occupied units. ~~as the last household in occupancy. If the income~~*
39 *category of the last household in occupancy is not known, it shall*
40 *be rebuttably presumed that lower income renter households*

1 *occupied these units in the same proportion of lower income renter*
2 *households to all renter households within the jurisdiction, as*
3 *determined by the most recently available data from the United*
4 *States Department of Housing and Urban Development's*
5 *Comprehensive Housing Affordability Strategy database. All*
6 *replacement calculations resulting in fractional units shall be*
7 *rounded up to the next whole number. If the replacement units will*
8 *be rental dwelling units, these units shall be subject to a recorded*
9 *affordability restriction for at least 55 years. If the proposed*
10 *development is for-sale units, the units replaced shall be subject*
11 *to paragraph (2).*

12 (ii) If all dwelling units described in subparagraph (A) have
13 been vacated or demolished within the five-year period preceding
14 the application, the proposed housing development shall provide
15 at least the same number of units of equivalent size ~~or type, or~~
16 ~~both~~, as existed at the highpoint of those units in the five-year
17 period preceding the application to be made available at affordable
18 rent or affordable housing cost to, and occupied by, persons and
19 families in the same or lower income category as those persons
20 and families in occupancy at that time, if known. If the incomes
21 of the persons and families in occupancy at the highpoint is not
22 known, ~~then one-half of the required units shall be made available~~
23 ~~at affordable rent or affordable housing cost to, and occupied by,~~
24 ~~it shall be rebuttably presumed that low-income and very low~~
25 ~~income renter households occupied these units in the same~~
26 ~~proportion of low-income and very low income persons and~~
27 ~~families and one-half of the required units shall be made available~~
28 ~~for rent at affordable housing costs to, and occupied by,~~
29 ~~low-income persons and families. renter households to all renter~~
30 ~~households within the jurisdiction, as determined by the most~~
31 ~~recently available data from the United States Department of~~
32 ~~Housing and Urban Development's Comprehensive Housing~~
33 ~~Affordability Strategy database. All replacement calculations~~
34 ~~resulting in fractional units shall be rounded up to the next whole~~
35 ~~number. If the replacement units will be rental dwelling units,~~
36 ~~these units shall be subject to a recorded affordability restriction~~
37 ~~for at least 55 years. If the proposed development is for-sale units,~~
38 ~~the units replaced shall be subject to paragraph (2).~~

39 (C) *Notwithstanding subparagraph (B), for any dwelling unit*
40 *described in subparagraph (A) that is or was, within the five-year*

1 *period preceding the application, subject to a form of rent or price*
 2 *control through a local government’s valid exercise of its police*
 3 *power and that is or was occupied by persons or families above*
 4 *lower income, the city, county, or city and county may do either*
 5 *of the following:*

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

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

18 *(D) For purposes of this paragraph, “equivalent size” means*
 19 *that the replacement units contain at least the same total number*
 20 *of bedrooms as the units being replaced.*

21 ~~(C) Paragraph (3) of subdivision (e)~~

22 *(E) Subparagraph (A)(c) does not apply to an applicant seeking*
 23 *a density bonus for a proposed housing development if his or her*
 24 *application was submitted to, or processed by, a city, county, or*
 25 *city and county before January 1, 2015.*

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

34 *(A) The concession or incentive is not required in order to*
 35 *provide for affordable housing costs, as defined in Section 50052.5*
 36 *of the Health and Safety Code, or for rents for the targeted units*
 37 *to be set as specified in subdivision (c).*

38 *(B) The concession or incentive would have a ~~specific~~ specific,*
 39 *adverse impact, as defined in paragraph (2) of subdivision (d) of*
 40 *Section 65589.5, upon public health and safety or the physical*

1 environment or on any real property that is listed in the California
2 Register of Historical Resources and for which there is no feasible
3 method to satisfactorily mitigate or avoid the ~~specific~~ *specific*,
4 adverse impact without rendering the development unaffordable
5 to low- and moderate-income households.

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

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

10 (A) One incentive or concession for projects that include at least
11 10 percent of the total units for lower income households, at least
12 5 percent for very low income households, or at least 10 percent
13 for persons and families of moderate income in a common interest
14 development.

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

20 (C) Three incentives or concessions for projects that include at
21 least 30 percent of the total units for lower income households, at
22 least 15 percent for very low income households, or at least 30
23 percent for persons and families of moderate income in a common
24 interest development.

25 (3) The applicant may initiate judicial proceedings if the city,
26 county, or city and county refuses to grant a requested density
27 bonus, incentive, or concession. If a court finds that the refusal to
28 grant a requested density bonus, incentive, or concession is in
29 violation of this section, the court shall award the plaintiff
30 reasonable attorney's fees and costs of suit. Nothing in this
31 subdivision shall be interpreted to require a local government to
32 grant an incentive or concession that has a specific, adverse impact,
33 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
34 upon health, safety, or the physical environment, and for which
35 there is no feasible method to satisfactorily mitigate or avoid the
36 specific adverse impact. Nothing in this subdivision shall be
37 interpreted to require a local government to grant an incentive or
38 concession that would have an adverse impact on any real property
39 that is listed in the California Register of Historical Resources.
40 The city, county, or city and county shall establish procedures for

1 carrying out this section, that shall include legislative body
2 approval of the means of compliance with this section.

3 (e) (1) In no case may a city, county, or city and county apply
4 any development standard that will have the effect of physically
5 precluding the construction of a development meeting the criteria
6 of subdivision (b) at the densities or with the concessions or
7 incentives permitted by this section. An applicant may submit to
8 a city, county, or city and county a proposal for the waiver or
9 reduction of development standards that will have the effect of
10 physically precluding the construction of a development meeting
11 the criteria of subdivision (b) at the densities or with the
12 concessions or incentives permitted under this section, and may
13 request a meeting with the city, county, or city and county. If a
14 court finds that the refusal to grant a waiver or reduction of
15 development standards is in violation of this section, the court
16 shall award the plaintiff reasonable attorney's fees and costs of
17 suit. Nothing in this subdivision shall be interpreted to require a
18 local government to waive or reduce development standards if the
19 waiver or reduction would have a specific, adverse impact, as
20 defined in paragraph (2) of subdivision (d) of Section 65589.5,
21 upon health, safety, or the physical environment, and for which
22 there is no feasible method to satisfactorily mitigate or avoid the
23 specific adverse impact. Nothing in this subdivision shall be
24 interpreted to require a local government to waive or reduce
25 development standards that would have an adverse impact on any
26 real property that is listed in the California Register of Historical
27 Resources, or to grant any waiver or reduction that would be
28 contrary to state or federal law.

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

33 (f) For the purposes of this chapter, "density bonus" means a
34 density increase over the otherwise maximum allowable residential
35 density as of the date of application by the applicant to the city,
36 county, or city and county. The applicant may elect to accept a
37 lesser percentage of density bonus. The amount of density bonus
38 to which the applicant is entitled shall vary according to the amount
39 by which the percentage of affordable housing units exceeds the
40 percentage established in subdivision (b).

1 (1) For housing developments meeting the criteria of
2 subparagraph (A) of paragraph (1) of subdivision (b), the density
3 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

17
18 (2) For housing developments meeting the criteria of
19 subparagraph (B) of paragraph (1) of subdivision (b), the density
20 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

30
31 (3) (A) For housing developments meeting the criteria of
32 subparagraph (C) of paragraph (1) of subdivision (b), the density
33 bonus shall be 20 percent of the number of senior housing units.

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

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

	Percentage Moderate-Income Units	Percentage Density Bonus
1		
2	10	5
3	11	6
4	12	7
5	13	8
6	14	9
7	15	10
8	16	11
9	17	12
10	18	13
11	19	14
12	20	15
13	21	16
14	22	17
15	23	18
16	24	19
17	25	20
18	26	21
19	27	22
20	28	23
21	29	24
22	30	25
23	31	26
24	32	27
25	33	28
26	34	29
27	35	30
28	36	31
29	37	32
30	38	33
31	39	34
32	40	35
33		

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

39 (g) (1) When an applicant for a tentative subdivision map,
 40 parcel map, or other residential development approval donates

1 land to a city, county, or city and county in accordance with this
 2 subdivision, the applicant shall be entitled to a 15-percent increase
 3 above the otherwise maximum allowable residential density for
 4 the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
5		
6		
7	10	15
8	11	16
9	12	17
10	13	18
11	14	19
12	15	20
13	16	21
14	17	22
15	18	23
16	19	24
17	20	25
18	21	26
19	22	27
20	23	28
21	24	29
22	25	30
23	26	31
24	27	32
25	28	33
26	29	34
27	30	35

28
 29 (2) This increase shall be in addition to any increase in density
 30 mandated by subdivision (b), up to a maximum combined mandated
 31 density increase of 35 percent if an applicant seeks an increase
 32 pursuant to both this subdivision and subdivision (b). All density
 33 calculations resulting in fractional units shall be rounded up to the
 34 next whole number. Nothing in this subdivision shall be construed
 35 to enlarge or diminish the authority of a city, county, or city and
 36 county to require a developer to donate land as a condition of
 37 development. An applicant shall be eligible for the increased
 38 density bonus described in this subdivision if all of the following
 39 conditions are met:

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

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

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

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

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

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

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

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

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

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

9 (B) An additional concession or incentive that contributes
10 significantly to the economic feasibility of the construction of the
11 child care facility.

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

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

19 (B) Of the children who attend the child care facility, the
20 children of very low income households, lower income households,
21 or families of moderate income shall equal a percentage that is
22 equal to or greater than the percentage of dwelling units that are
23 required for very low income households, lower income
24 households, or families of moderate income pursuant to subdivision
25 (b).

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

31 (4) “Child care facility,” as used in this section, means a child
32 day care facility other than a family day care home, including, but
33 not limited to, infant centers, preschools, extended day care
34 facilities, and schoolage child care centers.

35 (i) “Housing development,” as used in this section, means a
36 development project for five or more residential units. For the
37 purposes of this section, “housing development” also includes a
38 subdivision or common interest development, as defined in Section
39 4100 of the Civil Code, approved by a city, county, or city and
40 county and consists of residential units or unimproved residential

1 lots and either a project to substantially rehabilitate and convert
2 an existing commercial building to residential use or the substantial
3 rehabilitation of an existing multifamily dwelling, as defined in
4 subdivision (d) of Section 65863.4, where the result of the
5 rehabilitation would be a net increase in available residential units.
6 For the purpose of calculating a density bonus, the residential units
7 shall be on contiguous sites that are the subject of one development
8 application, but do not have to be based upon individual
9 subdivision maps or parcels. The density bonus shall be permitted
10 in geographic areas of the housing development other than the
11 areas where the units for the lower income households are located.

12 (j) (1) The granting of a concession or incentive shall not be
13 interpreted, in and of itself, to require a general plan amendment,
14 local coastal plan amendment, zoning change, or other discretionary
15 approval. This provision is declaratory of existing law.

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

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

22 (1) A reduction in site development standards or a modification
23 of zoning code requirements or architectural design requirements
24 that exceed the minimum building standards approved by the
25 California Building Standards Commission as provided in Part 2.5
26 (commencing with Section 18901) of Division 13 of the Health
27 and Safety Code, including, but not limited to, a reduction in
28 setback and square footage requirements and in the ratio of
29 vehicular parking spaces that would otherwise be required that
30 results in identifiable, financially sufficient, and actual cost
31 reductions.

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

38 (3) Other regulatory incentives or concessions proposed by the
39 developer or the city, county, or city and county that result in
40 identifiable, financially sufficient, and actual cost reductions.

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

5 (m) This section does not supersede or in any way alter or lessen
6 the effect or application of the California Coastal Act of 1976
7 (Division 20 (commencing with Section 30000) of the Public
8 Resources Code).

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

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

18 (1) "Development standard" includes a site or construction
19 condition, including, but not limited to, a height limitation, a
20 setback requirement, a floor area ratio, an onsite open-space
21 requirement, or a parking ratio that applies to a residential
22 development pursuant to any ordinance, general plan element,
23 specific plan, charter, or other local condition, law, policy,
24 resolution, or regulation.

25 (2) "Maximum allowable residential density" means the density
26 allowed under the zoning ordinance and land use element of the
27 general plan, or if a range of density is permitted, means the
28 maximum allowable density for the specific zoning range and land
29 use element of the general plan applicable to the project. Where
30 the density allowed under the zoning ordinance is inconsistent
31 with the density allowed under the land use element of the general
32 plan, the general plan density shall prevail.

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

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

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

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

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

14 (3) Notwithstanding paragraph (1), if a development consists
15 solely of rental units, exclusive of a manager's unit or units, with
16 an affordable housing cost to lower income families, as provided
17 in Section 50052.5 of the Health and Safety Code, then, upon the
18 request of the developer, a city, county, or city and county shall
19 not impose a vehicular parking ratio, inclusive of handicapped and
20 guest parking, that exceeds the following ratios:

21 (A) If the development is located within one-half mile of a major
22 transit stop, as defined in subdivision (b) of Section 21155 of the
23 Public Resources Code, and there is unobstructed access to the
24 major transit stop from the development, the ratio shall not exceed
25 0.5 spaces per unit.

26 (B) If the development is a for-rent housing development for
27 individuals who are 62 years of age or older that complies with
28 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
29 0.5 spaces per unit. The development shall have either paratransit
30 service or unobstructed access, within one-half mile, to fixed bus
31 route service that operates at least eight times per day.

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

38 (4) If the total number of parking spaces required for a
39 development is other than a whole number, the number shall be
40 rounded up to the next whole number. For purposes of this

1 subdivision, a development may provide ~~on-site~~ onsite parking
2 through tandem parking or uncovered parking, but not through
3 ~~on-street~~ onstreet parking.

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

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

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

28 *SEC. 1.7. Section 65915 of the Government Code is amended*
29 *to read:*

30 65915. (a) (1) When an applicant seeks a density bonus for
31 a housing development within, or for the donation of land for
32 housing within, the jurisdiction of a city, county, or city and county,
33 that local government shall ~~provide the applicant with incentives~~
34 ~~or concessions for the production of housing units and child care~~
35 ~~facilities as prescribed in this section. All cities, counties, or cities~~
36 ~~and counties comply with this section. A city, county, or city and~~
37 ~~county shall adopt an ordinance that specifies how compliance~~
38 ~~with this section will be implemented. Failure to adopt an ordinance~~
39 ~~shall not relieve a city, county, or city and county from complying~~
40 ~~with this section.~~

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

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

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

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

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

22 (b) (1) A city, county, or city and county shall grant one density
23 bonus, the amount of which shall be as specified in subdivision
24 (f), ~~and~~ and, if requested by the applicant and consistent with the
25 applicable requirements of this section, incentives or concessions,
26 as described in subdivision (d), waivers or reductions of
27 development standards, as described in subdivision (e), and
28 parking ratios, as described in subdivision (p), when an applicant
29 for a housing development seeks and agrees to construct a housing
30 development, excluding any units permitted by the density bonus
31 awarded pursuant to this section, that will contain at least any one
32 of the following:

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

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

39 (C) A senior citizen housing development, as defined in Sections
40 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits

1 residency based on age requirements for housing for older persons
2 pursuant to Section 798.76 or 799.5 of the Civil Code.

3 (D) Ten percent of the total dwelling units in a common interest
4 development, as defined in Section 4100 of the Civil Code, for
5 persons and families of moderate income, as defined in Section
6 50093 of the Health and Safety Code, provided that all units in the
7 development are offered to the public for purchase.

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

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

21 (3) For the purposes of this section, “total units” or “total
22 dwelling units” does not include units added by a density bonus
23 awarded pursuant to this section or any local law granting a greater
24 density bonus.

25 (c) (1) An applicant shall agree to, and the city, county, or city
26 and county shall ensure, the continued affordability of all very low
27 and low-income rental units that qualified the applicant for the
28 award of the density bonus for 55 years or a longer period of time
29 if required by the construction or mortgage financing assistance
30 program, mortgage insurance program, or rental subsidy program.
31 Rents for the lower income density bonus units shall be set at an
32 affordable rent as defined in Section 50053 of the Health and Safety
33 Code.

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

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

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

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

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

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

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

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

1 (B) For the purposes of this paragraph, “replace” shall mean
2 either of the following:

3 (i) If any dwelling units described in subparagraph (A) are
4 occupied on the date of application, the proposed housing
5 development shall provide at least the same number of units of
6 equivalent size ~~or type, or both~~, to be made available at affordable
7 rent or affordable housing cost to, and occupied by, persons and
8 families in the same or lower income category as those households
9 in occupancy. *If the income category of the household in occupancy*
10 *is not known, it shall be rebuttably presumed that lower income*
11 *renter households occupied these units in the same proportion of*
12 *lower income renter households to all renter households within*
13 *the jurisdiction, as determined by the most recently available data*
14 *from the United States Department of Housing and Urban*
15 *Development’s Comprehensive Housing Affordability Strategy*
16 *database. For unoccupied dwelling units described in subparagraph*
17 *(A) in a development with occupied units, the proposed housing*
18 *development shall provide units of equivalent size ~~or type, or both~~,*
19 *to be made available at affordable rent or affordable housing cost*
20 *to, and occupied by, persons and families in the same or lower*
21 *income category ~~in the same proportion of affordability as the~~*
22 *~~occupied units~~. *as the last household in occupancy. If the income**
23 *category of the last household in occupancy is not known, it shall*
24 *be rebuttably presumed that lower income renter households*
25 *occupied these units in the same proportion of lower income renter*
26 *households to all renter households within the jurisdiction, as*
27 *determined by the most recently available data from the United*
28 *States Department of Housing and Urban Development’s*
29 *Comprehensive Housing Affordability Strategy database. All*
30 *replacement calculations resulting in fractional units shall be*
31 *rounded up to the next whole number. If the replacement units will*
32 *be rental dwelling units, these units shall be subject to a recorded*
33 *affordability restriction for at least 55 years. If the proposed*
34 *development is for-sale units, the units replaced shall be subject*
35 *to paragraph (2).*

36 (ii) If all dwelling units described in subparagraph (A) have
37 been vacated or demolished within the five-year period preceding
38 the application, the proposed housing development shall provide
39 at least the same number of units of equivalent size ~~or type, or~~
40 ~~both~~, as existed at the highpoint of those units in the five-year

1 period preceding the application to be made available at affordable
2 rent or affordable housing cost to, and occupied by, persons and
3 families in the same or lower income category as those persons
4 and families in occupancy at that time, if known. If the incomes
5 of the persons and families in occupancy at the highpoint is not
6 known, ~~then one-half of the required units shall be made available~~
7 ~~at affordable rent or affordable housing cost to, and occupied by,~~
8 *it shall be rebuttably presumed that low-income and very low*
9 *income renter households occupied these units in the same*
10 *proportion of low-income and very low income persons and*
11 *families and one-half of the required units shall be made available*
12 ~~for rent at affordable housing costs to, and occupied by,~~
13 ~~low-income persons and families.~~ *renter households to all renter*
14 *households within the jurisdiction, as determined by the most*
15 *recently available data from the United States Department of*
16 *Housing and Urban Development's Comprehensive Housing*
17 *Affordability Strategy database. All replacement calculations*
18 *resulting in fractional units shall be rounded up to the next whole*
19 *number. If the replacement units will be rental dwelling units,*
20 *these units shall be subject to a recorded affordability restriction*
21 *for at least 55 years. If the proposed development is for-sale units,*
22 *the units replaced shall be subject to paragraph (2).*

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

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

37 *(ii) Require that the units be replaced in compliance with the*
38 *jurisdiction's rent or price control ordinance, provided that each*
39 *unit described in subparagraph (A) is replaced. Unless otherwise*

1 *required by the jurisdiction's rent or price control ordinance, these*
2 *units shall not be subject to a recorded affordability restriction.*

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

6 ~~(C) Paragraph (3) of subdivision (e)~~

7 (E) *Subparagraph (A) does not apply to an applicant seeking a*
8 *density bonus for a proposed housing development if his or her*
9 *application was submitted to, or processed by, a city, county, or*
10 *city and county before January 1, 2015.*

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

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

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

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

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

36 (A) *One incentive or concession for projects that include at least*
37 *10 percent of the total units for lower income households, at least*
38 *5 percent for very low income households, or at least 10 percent*
39 *for persons and families of moderate income in a common interest*
40 *development.*

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

6 (C) Three incentives or concessions for projects that include at
7 least 30 percent of the total units for lower income households, at
8 least 15 percent for very low income households, or at least 30
9 percent for persons and families of moderate income in a common
10 interest development.

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

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

31 (e) (1) In no case may a city, county, or city and county apply
32 any development standard that will have the effect of physically
33 precluding the construction of a development meeting the criteria
34 of subdivision (b) at the densities or with the concessions or
35 incentives permitted by this section. An applicant may submit to
36 a city, county, or city and county a proposal for the waiver or
37 reduction of development standards that will have the effect of
38 physically precluding the construction of a development meeting
39 the criteria of subdivision (b) at the densities or with the
40 concessions or incentives permitted under this section, and may

1 request a meeting with the city, county, or city and county. If a
 2 court finds that the refusal to grant a waiver or reduction of
 3 development standards is in violation of this section, the court
 4 shall award the plaintiff reasonable attorney’s fees and costs of
 5 suit. Nothing in this subdivision shall be interpreted to require a
 6 local government to waive or reduce development standards if the
 7 waiver or reduction would have a specific, adverse impact, as
 8 defined in paragraph (2) of subdivision (d) of Section 65589.5,
 9 upon health, safety, or the physical environment, and for which
 10 there is no feasible method to satisfactorily mitigate or avoid the
 11 specific adverse impact. Nothing in this subdivision shall be
 12 interpreted to require a local government to waive or reduce
 13 development standards that would have an adverse impact on any
 14 real property that is listed in the California Register of Historical
 15 Resources, or to grant any waiver or reduction that would be
 16 contrary to state or federal law.

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

21 (f) For the purposes of this chapter, “density bonus” means a
 22 density increase over the otherwise maximum allowable *gross*
 23 residential density as of the date of application by the applicant to
 24 the city, county, or city and ~~county~~. ~~The applicant may elect to~~
 25 ~~accept county, or, if elected by the applicant,~~ a lesser percentage
 26 of density ~~bonus~~: *increase, including, but not limited to, no increase*
 27 *in density*. The amount of density ~~bonus~~ *increase* to which the
 28 applicant is entitled shall vary according to the amount by which
 29 the percentage of affordable housing units exceeds the percentage
 30 established in subdivision (b).

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

	Percentage Low-Income Units	Percentage Density Bonus
34		
35		
36		
37	10	20
38	11	21.5
39	12	23
40	13	24.5

1	14	26
2	15	27.5
3	17	30.5
4	18	32
5	19	33.5
6	20	35

7
8 (2) For housing developments meeting the criteria of
9 subparagraph (B) of paragraph (1) of subdivision (b), the density
10 bonus shall be calculated as follows:

11	Percentage Very Low Income Units	Percentage Density Bonus
12		
13	5	20
14	6	22.5
15	7	25
16	8	27.5
17	9	30
18	10	32.5
19	11	35

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

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

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

31	Percentage Moderate-Income Units	Percentage Density Bonus
32		
33	10	5
34	11	6
35	12	7
36	13	8
37	14	9
38	15	10
39	16	11
40	17	12

1	18	13
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23	40	35

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

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

37	Percentage Very Low Income	Percentage Density Bonus
38	10	15
39	11	16
40	12	17

1	13	18
2	14	19
3	15	20
4	16	21
5	17	22
6	18	23
7	19	24
8	20	25
9	21	26
10	22	27
11	23	28
12	24	29
13	25	30
14	26	31
15	27	32
16	28	33
17	29	34
18	30	35
19		

20 (2) This increase shall be in addition to any increase in density
 21 mandated by subdivision (b), up to a maximum combined mandated
 22 density increase of 35 percent if an applicant seeks an increase
 23 pursuant to both this subdivision and subdivision (b). All density
 24 calculations resulting in fractional units shall be rounded up to the
 25 next whole number. Nothing in this subdivision shall be construed
 26 to enlarge or diminish the authority of a city, county, or city and
 27 county to require a developer to donate land as a condition of
 28 development. An applicant shall be eligible for the increased
 29 density bonus described in this subdivision if all of the following
 30 conditions are met:

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

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

39 (C) The transferred land is at least one acre in size or of
 40 sufficient size to permit development of at least 40 units, has the

1 appropriate general plan designation, is appropriately zoned with
2 appropriate development standards for development at the density
3 described in paragraph (3) of subdivision (c) of Section 65583.2,
4 and is or will be served by adequate public facilities and
5 infrastructure.

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

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

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

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

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

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

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

38 (B) An additional concession or incentive that contributes
39 significantly to the economic feasibility of the construction of the
40 child care facility.

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

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

8 (B) Of the children who attend the child care facility, the
9 children of very low income households, lower income households,
10 or families of moderate income shall equal a percentage that is
11 equal to or greater than the percentage of dwelling units that are
12 required for very low income households, lower income
13 households, or families of moderate income pursuant to subdivision
14 (b).

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

20 (4) “Child care facility,” as used in this section, means a child
21 day care facility other than a family day care home, including, but
22 not limited to, infant centers, preschools, extended day care
23 facilities, and schoolage child care centers.

24 (i) “Housing development,” as used in this section, means a
25 development project for five or more residential ~~units~~ *units*,
26 *including mixed-use developments*. For the purposes of this section,
27 “housing development” also includes a subdivision or common
28 interest development, as defined in Section 4100 of the Civil Code,
29 approved by a city, county, or city and county and consists of
30 residential units or unimproved residential lots and either a project
31 to substantially rehabilitate and convert an existing commercial
32 building to residential use or the substantial rehabilitation of an
33 existing multifamily dwelling, as defined in subdivision (d) of
34 Section 65863.4, where the result of the rehabilitation would be a
35 net increase in available residential units. For the purpose of
36 calculating a density bonus, the residential units shall be on
37 contiguous sites that are the subject of one development
38 application, but do not have to be based upon individual
39 subdivision maps or parcels. The density bonus shall be permitted

1 in geographic areas of the housing development other than the
2 areas where the units for the lower income households are located.

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

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

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

17 (1) A reduction in site development standards or a modification
18 of zoning code requirements or architectural design requirements
19 that exceed the minimum building standards approved by the
20 California Building Standards Commission as provided in Part 2.5
21 (commencing with Section 18901) of Division 13 of the Health
22 and Safety Code, including, but not limited to, a reduction in
23 setback and square footage requirements and in the ratio of
24 vehicular parking spaces that would otherwise be required that
25 results in ~~identifiable, financially sufficient,~~ *identifiable* and actual
26 cost ~~reductions.~~ *reductions, to provide for affordable housing costs,*
27 *as defined in Section 50052.5 of the Health and Safety Code, or*
28 *for rents for the targeted units to be set as specified in subdivision*
29 *(c).*

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

36 (3) Other regulatory incentives or concessions proposed by the
37 developer or the city, county, or city and county that result in
38 ~~identifiable, financially sufficient,~~ *identifiable* and actual cost
39 ~~reductions.~~ *reductions to provide for affordable housing costs, as*

1 *defined in Section 50052.5 of the Health and Safety Code, or for*
 2 *rents for the targeted units to be set as specified in subdivision (c).*

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

7 (m) This section does not supersede or in any way alter or lessen
 8 the effect or application of the California Coastal Act of 1976
 9 (Division 20 (commencing with Section 30000) of the Public
 10 Resources Code).

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

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

20 (1) “Development standard” includes a site or construction
 21 condition, including, but not limited to, a height limitation, a
 22 setback requirement, a floor area ratio, an onsite open-space
 23 requirement, or a parking ratio that applies to a residential
 24 development pursuant to any ordinance, general plan element,
 25 specific plan, charter, or other local condition, law, policy,
 26 resolution, or regulation.

27 (2) “Maximum allowable residential density” means the density
 28 allowed under the zoning ordinance and land use element of the
 29 general plan, ~~or~~ or, if a range of density is permitted, means the
 30 maximum allowable density for the specific zoning range and land
 31 use element of the general plan applicable to the project. Where
 32 the density allowed under the zoning ordinance is inconsistent
 33 with the density allowed under the land use element of the general
 34 plan, the general plan density shall prevail.

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

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

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

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

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

16 (3) Notwithstanding paragraph (1), if a development consists
17 solely of rental units, exclusive of a manager's unit or units, with
18 an affordable housing cost to lower income families, as provided
19 in Section 50052.5 of the Health and Safety Code, then, upon the
20 request of the developer, a city, county, or city and county shall
21 not impose a vehicular parking ratio, inclusive of handicapped and
22 guest parking, that exceeds the following ratios:

23 (A) If the development is located within one-half mile of a major
24 transit stop, as defined in subdivision (b) of Section 21155 of the
25 Public Resources Code, and there is unobstructed access to the
26 major transit stop from the development, the ratio shall not exceed
27 0.5 spaces per unit.

28 (B) If the development is a for-rent housing development for
29 individuals who are 62 years of age or older that complies with
30 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
31 0.5 spaces per unit. The development shall have either paratransit
32 service or unobstructed access, within one-half mile, to fixed bus
33 route service that operates at least eight times per day.

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

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

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

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

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

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

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

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

3 SEC. 2. (a) Section 1.3 of this bill incorporates amendments
4 to Section 65915 of the Government Code proposed by both this
5 bill and Assembly Bill 2501. It shall only become operative if (1)
6 both bills are enacted and become effective on or before January
7 1, 2017, (2) each bill amends Section 65915 of the Government
8 Code, and (3) Assembly Bill 2556 is not enacted or as enacted
9 does not amend that section, and (4) this bill is enacted after
10 Assembly Bill 2501, in which case Sections 1, 1.5, and 1.7 of this
11 bill shall not become operative.

12 (b) Section 1.5 of this bill incorporates amendments to Section
13 65915 of the Government Code proposed by both this bill and
14 Assembly Bill 2556. It shall only become operative if (1) both bills
15 are enacted and become effective on or before January 1, 2017,
16 (2) each bill amends Section 65915 of the Government Code, (3)
17 Assembly Bill 2501 is not enacted or as enacted does not amend
18 that section, and (4) this bill is enacted after Assembly Bill 2556
19 in which case Sections 1, 1.3, and 1.7 of this bill shall not become
20 operative.

21 (c) Section 1.7 of this bill incorporates amendments to Section
22 65915 of the Government Code proposed by this bill, Assembly
23 Bill 2501, and Assembly Bill 2556. It shall only become operative
24 if (1) all three bills are enacted and become effective on or before
25 January 1, 2017, (2) all three bills amend Section 65915 of the
26 Government Code, and (3) this bill is enacted after Assembly Bill
27 2501 and Assembly Bill 2556, in which case Sections 1, 1.3, and
28 1.5 of this bill shall not become operative.

29 ~~SEC. 2.~~

30 SEC. 3. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.

O