



MEMORANDUM

Agenda Item #: 3
Meeting Date: 4/6/2023

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: DAVID READY, INTERIM CITY MANAGER

SUBJECT: SB 423 (WIENER) STREAMLINED HOUSING APPROVALS: MULTIFAMILY HOUSING DEVELOPMENTS: SB 35 (CHAPTER 366, STATUTES OF 2017) EXPANSION: NOTICE OF OPPOSITION

DATE: APRIL 11, 2023

ACTION REQUIRED **CONSENT** **RECEIVE & FILE**

RECOMMENDATION

Authorize the Mayor, on behalf of the City Council, to send a Notice of Opposition to SB 423 to the State legislature.

BACKGROUND AND SUMMARY

On August 14, 2017, Mayor James D. Vandever, on behalf of the City Council, sent a Notice of Opposition to State legislators opposing SB 35 (Wiener), stating that it would pre-empt local discretionary land use authority by making approvals of certain multifamily developments “ministerial” actions, bypass California Environmental Quality Act (CEQA) requirements and, eliminate public input.

SB 423 (Wiener) would compound this negative impact, expanding SB 35 (Chapter 366, Statutes of 2017) provisions and eliminating the January 1, 2026, sunset date, thus forcing cities to approve housing projects without regard to community needs, in addition to removing environmental review and public input.

ATTACHMENTS

- A – Legislative Text SB 423
- B – Legislative Text SB 35 (Chapter 366)
- C – SB 35 Notice of Opposition
- D – Draft SB 423 Notice of Opposition

AMENDED IN SENATE MARCH 28, 2023

SENATE BILL**No. 423**

Introduced by Senator Wiener
(Principal coauthor: Assembly Member Wicks)
(*Coauthor: Senator Hurtado*)
(Coauthor: Assembly Member Grayson)

February 13, 2023

An act to amend Section 65913.4 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 423, as amended, Wiener. Land use: streamlined housing approvals: multifamily housing developments.

Existing law, the Planning and Zoning Law, authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards, including, among others, that the development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate-income housing units required, as specified, remain available at affordable housing costs, as defined, or rent to persons and families of lower or moderate-income for no less than specified periods of time. Existing law repeals these provisions on January 1, 2026.

This bill would authorize the Department of General Services to act in the place of a locality or local government, at the discretion of that department, for purposes of the ministerial, streamlined review for development on property owned by or leased to the state. The bill would

delete the January 1, 2026, repeal date, thereby making these provisions operative indefinitely.

This bill would modify the above-described objective planning standards, including by deleting the standard that prohibits a multifamily housing development from being subject to the streamlined, ministerial approval process if the development is located in a coastal zone, and by providing an alternative definition for “affordable housing costs” for a development that dedicates 100% of units, exclusive of a manager’s unit or units, to lower income households. The bill would, among other modifications, delete the objective planning standards requiring development proponents to pay at least the general prevailing rate of per diem wages and utilize a skilled and trained workforce and would instead require a development proponent to certify to the local government that certain wage and labor standards will be met, including a requirement that all construction workers be paid at least the general prevailing rate of wages, as specified. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would specify that the requirements to pay prevailing wages, use a workforce participating in an apprenticeship, or provide health care expenditures do not apply to a project that consists of 10 or fewer units and is not otherwise a public work.

~~This bill would define “objective planning standards” to exclude specified standards, including local building codes, fire codes, other codes requiring detailed technical specifications, and standards that are not reasonably ascertainable by the local government within specified time limits, as described.~~

Existing law requires a local government to approve a development if the local government determines the development is consistent with the objective planning standards. Existing law requires, if the local government determines a submitted development is in conflict with any of the objective planning standards, the local government to provide the development proponent written documentation of the standards the development conflicts with and an explanation for the conflict within certain timelines depending on the size of the development. Existing law, the Housing Accountability Act, prohibits a local agency from disapproving a housing development project, as described, unless it makes specified written findings.

This bill would instead require approval if a local government’s planning director or ~~any equivalent local government staff, including~~

~~all relevant planning and permitting departments, equivalent position determines the development is consistent with the objective planning standards. The bill would make conforming changes. The bill would require all departments of the local government that are required to issue an approval of the development prior to the granting of an entitlement to also comply with the above-described streamlined approval requirements within specified time periods. The bill would prohibit a local government from requiring a development proponent to provide consultant studies, as described, or other studies requiring, prior to approving a development that meets the requirements of the above-described streamlining provisions, compliance with any standards necessary to receive a postentitlement permit or studies, information, or other materials that are unnecessary to ascertain consistency do not pertain directly to determining whether the development is consistent with the objective planning standards. standards applicable to the development.~~

The bill would, for purposes of these provisions, establish that the total number of units in a development includes (1) all projects developed on a site, regardless of when those developments occur, and (2) all projects developed on sites adjacent to a site developed pursuant to these provisions if, after January 1, 2023, the adjacent site had been subdivided from the site developed pursuant to these provisions.

Existing law authorizes the local government’s planning commission or any equivalent board or commission responsible for review and approval of development projects, or as otherwise specified, to conduct any design review or public oversight of the development.

This bill would remove the above-described authorization to conduct public oversight of the development and would only authorize design review to be conducted by the local government’s planning commission or any equivalent board or commission responsible for design review.

By imposing additional duties on local officials, the bill would impose a state-mandated local program.

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

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 specified reasons.

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. The Legislature finds and declares that it has
- 2 provided reforms and incentives to facilitate and expedite the
- 3 construction of affordable housing. Those reforms and incentives
- 4 can be found in the following provisions:
- 5 (a) Housing element law (Article 10.6 (commencing with
- 6 Section 65580) of Chapter 3 of Division 1 of Title 7 of the
- 7 Government Code).
- 8 (b) Extension of statute of limitations in actions challenging the
- 9 housing element and brought in support of affordable housing
- 10 (subdivision (d) of Section 65009 of the Government Code).
- 11 (c) Restrictions on disapproval of housing developments
- 12 (Section 65589.5 of the Government Code).
- 13 (d) Priority for affordable housing in the allocation of water and
- 14 sewer hookups (Section 65589.7 of the Government Code).
- 15 (e) Least cost zoning law (Section 65913.1 of the Government
- 16 Code).
- 17 (f) Density Bonus Law (Section 65915 of the Government
- 18 Code).
- 19 (g) Accessory dwelling units (Sections 65852.150 and 65852.2
- 20 of the Government Code).
- 21 (h) By-right housing, in which certain multifamily housing is
- 22 designated a permitted use (Section 65589.4 of the Government
- 23 Code).
- 24 (i) No-net-loss-in zoning density law limiting downzonings and
- 25 density reductions (Section 65863 of the Government Code).
- 26 (j) Requiring persons who sue to halt affordable housing to pay
- 27 attorney’s fees (Section 65914 of the Government Code) or post
- 28 a bond (Section 529.2 of the Code of Civil Procedure).
- 29 (k) Reduced time for action on affordable housing applications
- 30 under the approval of development permits process (Article 5
- 31 (commencing with Section 65950) of Chapter 4.5 of Division 1
- 32 of Title 7 of the Government Code).
- 33 (l) Limiting moratoriums on multifamily housing (Section 65858
- 34 of the Government Code).

- 1 (m) Prohibiting discrimination against affordable housing
2 (Section 65008 of the Government Code).
- 3 (n) California Fair Employment and Housing Act (Part 2.8
4 (commencing with Section 12900) of Division 3 of Title 2 of the
5 Government Code).
- 6 (o) Community Redevelopment Law (Part 1 (commencing with
7 Section 33000) of Division 24 of the Health and Safety Code, and
8 in particular Sections 33334.2 and 33413 of the Health and Safety
9 Code).
- 10 (p) Streamlining housing approvals during a housing shortage
11 (Section 65913.4 of the Government Code).
- 12 (q) Housing sustainability districts (Chapter 11 (commencing
13 with Section 66200) of Division 1 of Title 7 of the Government
14 Code).
- 15 (r) Streamlining agricultural employee housing development
16 approvals (Section 17021.8 of the Health and Safety Code).
- 17 (s) *The Housing Crisis Act of 2019 (Senate Bill 330 (Chapter*
18 *654 of the Statutes of 2019))*.
- 19 (t) *Allowing four units to be built on single-family parcels*
20 *statewide (Senate Bill 9 (Chapter 162 of Statutes of 2021))*.
- 21 (u) *The Middle Class Housing Act of 2022 (Section 65852.24*
22 *of the Government Code)*.
- 23 ~~(s)~~
- 24 (v) Affordable Housing and High Road Jobs Act of 2022
25 (Chapter 4.1 (commencing with Section 65912.100) of Division
26 1 of Title 7 of the Government Code).
- 27 SEC. 2. Section 65913.4 of the Government Code is amended
28 to read:
- 29 65913.4. (a) A development proponent may submit an
30 application for a development that is subject to the streamlined,
31 ministerial approval process provided by subdivision (c) and is
32 not subject to a conditional use permit or any other nonlegislative
33 discretionary approval if the development complies with
34 subdivision (b) and satisfies all of the following objective planning
35 standards:
- 36 (1) The development is a multifamily housing development that
37 contains two or more residential units.
- 38 (2) The development and the site on which it is located satisfy
39 all of the following:

1 (A) It is a legal parcel or parcels located in a city if, and only
2 if, the city boundaries include some portion of either an urbanized
3 area or urban cluster, as designated by the United States Census
4 Bureau, or, for unincorporated areas, a legal parcel or parcels
5 wholly within the boundaries of an urbanized area or urban cluster,
6 as designated by the United States Census Bureau.

7 (B) At least 75 percent of the perimeter of the site adjoins parcels
8 that are developed with urban uses. For the purposes of this section,
9 parcels that are only separated by a street or highway shall be
10 considered to be adjoined.

11 (C) (i) A site that meets the requirements of clause (ii) and
12 satisfies any of the following:

13 (I) The site is zoned for residential use or residential mixed-use
14 development.

15 (II) The site has a general plan designation that allows residential
16 use or a mix of residential and nonresidential uses.

17 (III) The site is zoned for office or retail commercial use and
18 meets the requirements of Section 65852.24.

19 (ii) At least two-thirds of the square footage of the development
20 is designated for residential use. Additional density, floor area,
21 and units, and any other concession, incentive, or waiver of
22 development standards granted pursuant to the Density Bonus Law
23 in Section 65915 shall be included in the square footage
24 calculation. The square footage of the development shall not
25 include underground space, such as basements or underground
26 parking garages.

27 (3) (A) The development proponent has committed to record,
28 prior to the issuance of the first building permit, a land use
29 restriction or covenant providing that any lower or moderate
30 income housing units required pursuant to subparagraph (B) of
31 paragraph (4) shall remain available at affordable housing costs
32 or rent to persons and families of lower or moderate-income for
33 no less than the following periods of time:

34 (i) Fifty-five years for units that are rented.

35 (ii) Forty-five years for units that are owned.

36 (B) The city or county shall require the recording of covenants
37 or restrictions implementing this paragraph for each parcel or unit
38 of real property included in the development.

39 (4) The development satisfies clause (i) or (ii) of subparagraph
40 (A) and satisfies subparagraph (B) below:

1 (A) (i) For a development located in a locality that is in its sixth
2 or earlier housing element cycle, the development is located in
3 either of the following:

4 (I) In a locality that the department has determined is subject
5 to this clause on the basis that the number of units that have been
6 issued building permits, as shown on the most recent production
7 report received by the department, is less than the locality's share
8 of the regional housing needs, by income category, for that
9 reporting period. A locality shall remain eligible under this
10 subclause until the department's determination for the next
11 reporting period.

12 (II) In a locality that the department has determined is subject
13 to this clause on the basis that the locality did not adopt a housing
14 element that has been found in substantial compliance with housing
15 element law (Article 10.6 (commencing with Section 65580) of
16 Chapter 3) by the department. A locality shall remain eligible under
17 this subclause until such time as the locality adopts a housing
18 element that has been found in substantial compliance with housing
19 element law (Article 10.6 (commencing with Section 65580) of
20 Chapter 3) by the department.

21 (ii) For a development located in a locality that is in its seventh
22 or later housing element cycle, is located in a locality that the
23 department has determined is subject to this clause on the basis
24 that the locality did not adopt a housing element that has been
25 found in substantial compliance with housing element law (Article
26 10.6 (commencing with Section 65580) of Chapter 3) by the
27 department by the statutory deadline, or that the number of units
28 that have been issued building permits, as shown on the most recent
29 production report received by the department, is less than the
30 locality's share of the regional housing needs, by income category,
31 for that reporting period. A locality shall remain eligible under
32 this subparagraph until the department's determination for the next
33 reporting period.

34 (B) The development is subject to a requirement mandating a
35 minimum percentage of below market rate housing based on one
36 of the following:

37 (i) The locality did not adopt a housing element pursuant to
38 Section 65588 that has been found in substantial compliance with
39 the housing element law (Article 10.6 (commencing with Section
40 65580) of Chapter 3) by the department, did not submit its latest

1 production report to the department by the time period required
2 by Section 65400, or that production report submitted to the
3 department reflects that there were fewer units of above
4 moderate-income housing issued building permits than were
5 required for the regional housing needs assessment cycle for that
6 reporting period. In addition, if the project contains more than 10
7 units of housing, the project does either of the following:

8 (I) The project dedicates a minimum of 10 percent of the total
9 number of units, before calculating any density bonus, to housing
10 affordable to households making at or below 80 percent of the area
11 median income. However, if the locality has adopted a local
12 ordinance that requires that greater than 10 percent of the units be
13 dedicated to housing affordable to households making below 80
14 percent of the area median income, that local ordinance applies.

15 (II) (ia) If the project is located within the San Francisco Bay
16 area, the project, in lieu of complying with subclause (I), dedicates
17 20 percent of the total number of units, before calculating any
18 density bonus, to housing affordable to households making below
19 120 percent of the area median income with the average income
20 of the units at or below 100 percent of the area median income.
21 However, a local ordinance adopted by the locality applies if it
22 requires greater than 20 percent of the units be dedicated to housing
23 affordable to households making at or below 120 percent of the
24 area median income, or requires that any of the units be dedicated
25 at a level deeper than 120 percent. In order to comply with this
26 subclause, the rent or sale price charged for units that are dedicated
27 to housing affordable to households between 80 percent and 120
28 percent of the area median income shall not exceed 30 percent of
29 the gross income of the household.

30 (ib) For purposes of this subclause, “San Francisco Bay area”
31 means the entire area within the territorial boundaries of the
32 Counties of Alameda, Contra Costa, Marin, Napa, San Mateo,
33 Santa Clara, Solano, and Sonoma, and the City and County of San
34 Francisco.

35 (ii) The locality’s latest production report reflects that there
36 were fewer units of housing issued building permits affordable to
37 either very low income or low-income households by income
38 category than were required for the regional housing needs
39 assessment cycle for that reporting period, and the project seeking
40 approval dedicates 50 percent of the total number of units, before

1 calculating any density bonus, to housing affordable to households
2 making at or below 80 percent of the area median income.
3 However, if the locality has adopted a local ordinance that requires
4 that greater than 50 percent of the units be dedicated to housing
5 affordable to households making at or below 80 percent of the area
6 median income, that local ordinance applies.

7 (iii) The locality did not submit its latest production report to
8 the department by the time period required by Section 65400, or
9 if the production report reflects that there were fewer units of
10 housing affordable to both income levels described in clauses (i)
11 and (ii) that were issued building permits than were required for
12 the regional housing needs assessment cycle for that reporting
13 period, the project seeking approval may choose between utilizing
14 clause (i) or (ii).

15 (C) (i) A development proponent that uses a unit of affordable
16 housing to satisfy the requirements of subparagraph (B) may also
17 satisfy any other local or state requirement for affordable housing,
18 including local ordinances or the Density Bonus Law in Section
19 65915, provided that the development proponent complies with
20 the applicable requirements in the state or local law. If a local
21 requirement for affordable housing requires units that are restricted
22 to households with incomes higher than the applicable income
23 limits required in subparagraph (B), then units that meet the
24 applicable income limits required in subparagraph (B) shall be
25 deemed to satisfy those local requirements for higher income units.

26 (ii) A development proponent that uses a unit of affordable
27 housing to satisfy any other state or local affordability requirement
28 may also satisfy the requirements of subparagraph (B), provided
29 that the development proponent complies with applicable
30 requirements of subparagraph (B).

31 (iii) A development proponent may satisfy the affordability
32 requirements of subparagraph (B) with a unit that is restricted to
33 households with incomes lower than the applicable income limits
34 required in subparagraph (B).

35 (D) The amendments to this subdivision made by the act adding
36 this subparagraph do not constitute a change in, but are declaratory
37 of, existing law.

38 (5) The development, excluding any additional density or any
39 other concessions, incentives, or waivers of development standards
40 for which the development is eligible pursuant to the Density Bonus

1 Law in Section 65915, is consistent with objective zoning
2 standards, objective subdivision standards, and objective design
3 review standards in effect at the time that the development is
4 submitted to the local government pursuant to this section, or at
5 the time a notice of intent is submitted pursuant to subdivision (b),
6 whichever occurs earlier. For purposes of this paragraph, “objective
7 zoning standards,” “objective subdivision standards,” and
8 “objective design review standards” mean standards that involve
9 no personal or subjective judgment by a public official and are
10 uniformly verifiable by reference to an external and uniform
11 benchmark or criterion available and knowable by both the
12 development applicant or proponent and the public official before
13 submittal. These standards may be embodied in alternative
14 objective land use specifications adopted by a city or county, and
15 may include, but are not limited to, housing overlay zones, specific
16 plans, inclusionary zoning ordinances, and density bonus
17 ordinances, subject to the following:

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

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

30 (C) It is the intent of the Legislature that the objective zoning
31 standards, objective subdivision standards, and objective design
32 review standards described in this paragraph be adopted or
33 amended in compliance with the requirements of Chapter 905 of
34 the Statutes of 2004.

35 (D) The amendments to this subdivision made by the act adding
36 this subparagraph do not constitute a change in, but are declaratory
37 of, existing law.

38 (E) A project that satisfies the requirements of Section 65852.24
39 shall be deemed consistent with objective zoning standards,
40 objective design standards, and objective subdivision standards if

1 the project is consistent with the provisions of subdivision (b) of
2 Section 65852.24 and if none of the square footage in the project
3 is designated for hotel, motel, bed and breakfast inn, or other
4 transient lodging use, except for a residential hotel. For purposes
5 of this subdivision, “residential hotel” shall have the same meaning
6 as defined in Section 50519 of the Health and Safety Code.

7 (6) The development is not located on a site that is any of the
8 following:

9 (A) Either prime farmland or farmland of statewide importance,
10 as defined pursuant to United States Department of Agriculture
11 land inventory and monitoring criteria, as modified for California,
12 and designated on the maps prepared by the Farmland Mapping
13 and Monitoring Program of the Department of Conservation, or
14 land zoned or designated for agricultural protection or preservation
15 by a local ballot measure that was approved by the voters of that
16 jurisdiction.

17 (B) Wetlands, as defined in the United States Fish and Wildlife
18 Service Manual, Part 660 FW 2 (June 21, 1993), unless the
19 development within the wetlands has been authorized *by a permit*
20 *or other approval issued* pursuant to federal or other state law.

21 (C) Within a very high fire hazard severity zone, as determined
22 by the Department of Forestry and Fire Protection pursuant to
23 Section 51178, or within a high or very high fire hazard severity
24 zone as indicated on maps adopted by the Department of Forestry
25 and Fire Protection pursuant to Section 4202 of the Public
26 Resources Code. This subparagraph does not apply to sites
27 excluded from the specified hazard zones by a local agency,
28 pursuant to subdivision (b) of Section 51179, or sites that have
29 adopted fire hazard mitigation measures pursuant to existing
30 building standards or state fire mitigation measures applicable to
31 the development.

32 (D) A hazardous waste site that is listed pursuant to Section
33 65962.5 or a hazardous waste site designated by the Department
34 of Toxic Substances Control pursuant to Section 25356 of the
35 Health and Safety Code, unless either of the following apply:

36 (i) The site is an underground storage tank site that received a
37 uniform closure letter issued pursuant to subdivision (g) of Section
38 25296.10 of the Health and Safety Code based on closure criteria
39 established by the State Water Resources Control Board for
40 residential use or residential mixed uses. This section does not

1 alter or change the conditions to remove a site from the list of
2 hazardous waste sites listed pursuant to Section 65962.5.

3 (ii) The State Department of Public Health, State Water
4 Resources Control Board, Department of Toxic Substances Control,
5 or a local agency making a determination pursuant to subdivision
6 (c) of Section 25296.10 of the Health and Safety Code, has
7 otherwise determined that the site is suitable for residential use or
8 residential mixed uses.

9 (E) Within a delineated earthquake fault zone as determined by
10 the State Geologist in any official maps published by the State
11 Geologist, unless the development complies with applicable seismic
12 protection building code standards adopted by the California
13 Building Standards Commission under the California Building
14 Standards Law (Part 2.5 (commencing with Section 18901) of
15 Division 13 of the Health and Safety Code), and by any local
16 building department under Chapter 12.2 (commencing with Section
17 8875) of Division 1 of Title 2.

18 (F) Within a special flood hazard area subject to inundation by
19 the 1 percent annual chance flood (100-year flood) as determined
20 by the Federal Emergency Management Agency in any official
21 maps published by the Federal Emergency Management Agency.
22 If a development proponent is able to satisfy all applicable federal
23 qualifying criteria in order to provide that the site satisfies this
24 subparagraph and is otherwise eligible for streamlined approval
25 under this section, a local government shall not deny the application
26 on the basis that the development proponent did not comply with
27 any additional permit requirement, standard, or action adopted by
28 that local government that is applicable to that site. A development
29 may be located on a site described in this subparagraph if either
30 of the following are met:

31 (i) The site has been subject to a Letter of Map Revision
32 prepared by the Federal Emergency Management Agency and
33 issued to the local jurisdiction.

34 (ii) The site meets Federal Emergency Management Agency
35 requirements necessary to meet minimum flood plain management
36 criteria of the National Flood Insurance Program pursuant to Part
37 59 (commencing with Section 59.1) and Part 60 (commencing
38 with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
39 Code of Federal Regulations.

1 (G) Within a regulatory floodway as determined by the Federal
2 Emergency Management Agency in any official maps published
3 by the Federal Emergency Management Agency, unless the
4 development has received a no-rise certification in accordance
5 with Section 60.3(d)(3) of Title 44 of the Code of Federal
6 Regulations. If a development proponent is able to satisfy all
7 applicable federal qualifying criteria in order to provide that the
8 site satisfies this subparagraph and is otherwise eligible for
9 streamlined approval under this section, a local government shall
10 not deny the application on the basis that the development
11 proponent did not comply with any additional permit requirement,
12 standard, or action adopted by that local government that is
13 applicable to that site.

14 (H) Lands identified for conservation in an adopted natural
15 community conservation plan pursuant to the Natural Community
16 Conservation Planning Act (Chapter 10 (commencing with Section
17 2800) of Division 3 of the Fish and Game Code), habitat
18 conservation plan pursuant to the federal Endangered Species Act
19 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
20 resource protection plan.

21 (I) Habitat for protected species identified as candidate,
22 sensitive, or species of special status by state or federal agencies,
23 fully protected species, or species protected by the federal
24 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.),
25 the California Endangered Species Act (Chapter 1.5 (commencing
26 with Section 2050) of Division 3 of the Fish and Game Code), or
27 the Native Plant Protection Act (Chapter 10 (commencing with
28 Section 1900) of Division 2 of the Fish and Game Code), unless
29 the development within the habitat has been authorized *by a permit*
30 *or approval issued* pursuant to federal or other state law.

31 (J) Lands under conservation easement.

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

34 (A) The development would require the demolition of the
35 following types of housing:

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

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

1 (iii) Housing that has been occupied by tenants within the past
2 10 years.

3 (B) The site was previously used for housing that was occupied
4 by tenants that was demolished within 10 years before the
5 development proponent submits an application under this section.

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

9 (D) The property contains housing units that are occupied by
10 tenants, and units at the property are, or were, subsequently offered
11 for sale to the general public by the subdivider or subsequent owner
12 of the property.

13 (8) Except as provided in paragraph (9), a proponent of a
14 development project approved by a local government pursuant to
15 this section shall require in contracts with construction contractors,
16 and shall certify to the local government, that the following
17 standards specified in this paragraph will be met in project
18 construction, as applicable:

19 (A) A development that is not in its entirety a public work for
20 purposes of Chapter 1 (commencing with Section 1720) of Part 7
21 of Division 2 of the Labor Code and approved by a local
22 government pursuant to Article 2 (commencing with Section
23 65912.110) or Article 3 (commencing with Section 65912.120)
24 shall be subject to all of the following:

25 (i) All construction workers employed in the execution of the
26 development shall be paid at least the general prevailing rate of
27 per diem wages for the type of work and geographic area, as
28 determined by the Director of Industrial Relations pursuant to
29 Sections 1773 and 1773.9 of the Labor Code, except that
30 apprentices registered in programs approved by the Chief of the
31 Division of Apprenticeship Standards may be paid at least the
32 applicable apprentice prevailing rate.

33 (ii) The development proponent shall ensure that the prevailing
34 wage requirement is included in all contracts for the performance
35 of the work for those portions of the development that are not a
36 public work.

37 (iii) All contractors and subcontractors for those portions of the
38 development that are not a public work shall comply with both of
39 the following:

1 (I) Pay to all construction workers employed in the execution
2 of the work at least the general prevailing rate of per diem wages,
3 except that apprentices registered in programs approved by the
4 Chief of the Division of Apprenticeship Standards may be paid at
5 least the applicable apprentice prevailing rate.

6 (II) Maintain and verify payroll records pursuant to Section
7 1776 of the Labor Code and make those records available for
8 inspection and copying as provided in that section. This subclause
9 does not apply if all contractors and subcontractors performing
10 work on the development are subject to a project labor agreement
11 that requires the payment of prevailing wages to all construction
12 workers employed in the execution of the development and
13 provides for enforcement of that obligation through an arbitration
14 procedure. For purposes of this subclause, “project labor
15 agreement” has the same meaning as set forth in paragraph (1) of
16 subdivision (b) of Section 2500 of the Public Contract Code.

17 (B) (i) The obligation of the contractors and subcontractors to
18 pay prevailing wages pursuant to this paragraph may be enforced
19 by any of the following:

20 (I) The Labor Commissioner through the issuance of a civil
21 wage and penalty assessment pursuant to Section 1741 of the Labor
22 Code, which may be reviewed pursuant to Section 1742 of the
23 Labor Code, within 18 months after the completion of the
24 development.

25 (II) An underpaid worker through an administrative complaint
26 or civil action.

27 (III) A joint labor-management committee through a civil action
28 under Section 1771.2 of the Labor Code.

29 (ii) If a civil wage and penalty assessment is issued pursuant to
30 this paragraph, the contractor, subcontractor, and surety on a bond
31 or bonds issued to secure the payment of wages covered by the
32 assessment shall be liable for liquidated damages pursuant to
33 Section 1742.1 of the Labor Code.

34 (iii) This paragraph does not apply if all contractors and
35 subcontractors performing work on the development are subject
36 to a project labor agreement that requires the payment of prevailing
37 wages to all construction workers employed in the execution of
38 the development and provides for enforcement of that obligation
39 through an arbitration procedure. For purposes of this clause,
40 “project labor agreement” has the same meaning as set forth in

1 paragraph (1) of subdivision (b) of Section 2500 of the Public
2 Contract Code.

3 (C) Notwithstanding subdivision (c) of Section 1773.1 of the
4 Labor Code, the requirement that employer payments not reduce
5 the obligation to pay the hourly straight time or overtime wages
6 found to be prevailing does not apply to those portions of
7 development that are not a public work if otherwise provided in a
8 bona fide collective bargaining agreement covering the worker.

9 (D) The requirement of this paragraph to pay at least the general
10 prevailing rate of per diem wages does not preclude use of an
11 alternative workweek schedule adopted pursuant to Section 511
12 or 514 of the Labor Code.

13 (E) A development of 50 or more housing units approved by a
14 local government pursuant to this section shall meet all of the
15 following labor standards:

16 (i) The development proponent shall require in contracts with
17 construction contractors and shall certify to the local government
18 that each contractor of any tier who will employ construction craft
19 employees or will let subcontracts for at least 1,000 hours shall
20 satisfy the requirements in clauses (ii) and (iii). A construction
21 contractor is deemed in compliance with clauses (ii) and (iii) if it
22 is signatory to a valid collective bargaining agreement that requires
23 utilization of registered apprentices and expenditures on health
24 care for employees and dependents.

25 (ii) A contractor with construction craft employees shall either
26 participate in an apprenticeship program approved by the California
27 Division of Apprenticeship Standards pursuant to Section 3075 of
28 the Labor Code, or request the dispatch of apprentices from a
29 state-approved apprenticeship program under the terms and
30 conditions set forth in Section 1777.5 of the Labor Code. A
31 contractor without construction craft employees shall show a
32 contractual obligation that its subcontractors comply with this
33 clause.

34 (iii) Each contractor with construction craft employees shall
35 make health care expenditures for each employee in an amount
36 per hour worked on the development equivalent to at least the
37 hourly pro rata cost of a Covered California Platinum level plan
38 for two adults 40 years of age and two dependents 0 to 14 years
39 of age for the Covered California rating area in which the
40 development is located. A contractor without construction craft

1 employees shall show a contractual obligation that its
2 subcontractors comply with this clause. Qualifying expenditures
3 shall be credited toward compliance with prevailing wage payment
4 requirements set forth in this paragraph.

5 (iv) (I) The development proponent shall provide to the local
6 government, on a monthly basis while its construction contracts
7 on the development are being performed, a report demonstrating
8 compliance with clauses (ii) and (iii). The reports shall be
9 considered public records under the California Public Records Act
10 (Division 10 (commencing with Section 7920.000) of Title 1), and
11 shall be open to public inspection.

12 (II) A development proponent that fails to provide the monthly
13 report shall be subject to a civil penalty for each month for which
14 the report has not been provided, in the amount of 10 percent of
15 the dollar value of construction work performed by that contractor
16 on the development in the month in question, up to a maximum
17 of ten thousand dollars (\$10,000). Any contractor or subcontractor
18 that fails to comply with clauses (ii) and (iii) shall be subject to a
19 civil penalty of two hundred dollars (\$200) per day for each worker
20 employed in contravention of clauses (ii) and (iii).

21 (III) Penalties may be assessed by the Labor Commissioner
22 within 18 months of completion of the development using the
23 procedures for issuance of civil wage and penalty assessments
24 specified in Section 1741 of the Labor Code, and may be reviewed
25 pursuant to Section 1742 of the Labor Code. Penalties shall be
26 deposited in the State Public Works Enforcement Fund established
27 pursuant to Section 1771.3 of the Labor Code.

28 (v) Each construction contractor shall maintain and verify
29 payroll records pursuant to Section 1776 of the Labor Code. Each
30 construction contractor shall submit payroll records directly to the
31 Labor Commissioner at least monthly in a format prescribed by
32 the Labor Commissioner in accordance with subparagraph (A) of
33 paragraph (3) of subdivision (a) of Section 1771.4 of the Labor
34 Code. The records shall include a statement of fringe benefits.
35 Upon request by a joint labor-management cooperation committee
36 established pursuant to the Federal Labor Management Cooperation
37 Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided
38 pursuant to subdivision (e) of Section 1776 of the Labor Code.

39 (vi) All construction contractors shall report any change in
40 apprenticeship program participation or health care expenditures

1 to the local government within 10 business days, and shall reflect
2 those changes on the monthly report. The reports shall be
3 considered public records pursuant to the California Public Records
4 Act (Division 10 (commencing with Section 7920.000) of Title 1)
5 and shall be open to public inspection.

6 (vii) A joint labor-management cooperation committee
7 established pursuant to the Federal Labor Management Cooperation
8 Act of 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a
9 construction contractor for failure to make health care expenditures
10 pursuant to clause (iii) in accordance with Section 218.7 or 218.8
11 of the Labor Code.

12 (9) Notwithstanding paragraph (8), a development that is subject
13 to approval pursuant to this section is exempt from any requirement
14 to pay prevailing wages, use a workforce participating in an
15 apprenticeship, or provide health care expenditures if it satisfies
16 both of the following:

17 (A) The project consists of 10 or fewer units.

18 (B) The project is not a public work for purposes of Chapter 1
19 (commencing with Section 1720) of Part 7 of Division 2 of the
20 Labor Code.

21 (10) The development shall not be upon an existing parcel of
22 land or site that is governed under the Mobilehome Residency Law
23 (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2
24 of Division 2 of the Civil Code), the Recreational Vehicle Park
25 Occupancy Law (Chapter 2.6 (commencing with Section 799.20)
26 of Title 2 of Part 2 of Division 2 of the Civil Code), the
27 Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)
28 of Division 13 of the Health and Safety Code), or the Special
29 Occupancy Parks Act (Part 2.3 (commencing with Section 18860)
30 of Division 13 of the Health and Safety Code).

31 (b) (1) (A) (i) Before submitting an application for a
32 development subject to the streamlined, ministerial approval
33 process described in subdivision (c), the development proponent
34 shall submit to the local government a notice of its intent to submit
35 an application. The notice of intent shall be in the form of a
36 preliminary application that includes all of the information
37 described in Section 65941.1, as that section read on January 1,
38 2020.

39 (ii) Upon receipt of a notice of intent to submit an application
40 described in clause (i), the local government shall engage in a

1 scoping consultation regarding the proposed development with
2 any California Native American tribe that is traditionally and
3 culturally affiliated with the geographic area, as described in
4 Section 21080.3.1 of the Public Resources Code, of the proposed
5 development. In order to expedite compliance with this subdivision,
6 the local government shall contact the Native American Heritage
7 Commission for assistance in identifying any California Native
8 American tribe that is traditionally and culturally affiliated with
9 the geographic area of the proposed development.

10 (iii) The timeline for noticing and commencing a scoping
11 consultation in accordance with this subdivision shall be as follows:

12 (I) The local government shall provide a formal notice of a
13 development proponent's notice of intent to submit an application
14 described in clause (i) to each California Native American tribe
15 that is traditionally and culturally affiliated with the geographic
16 area of the proposed development within 30 days of receiving that
17 notice of intent. The formal notice provided pursuant to this
18 subclause shall include all of the following:

19 (ia) A description of the proposed development.

20 (ib) The location of the proposed development.

21 (ic) An invitation to engage in a scoping consultation in
22 accordance with this subdivision.

23 (II) Each California Native American tribe that receives a formal
24 notice pursuant to this clause shall have 30 days from the receipt
25 of that notice to accept the invitation to engage in a scoping
26 consultation.

27 (III) If the local government receives a response accepting an
28 invitation to engage in a scoping consultation pursuant to this
29 subdivision, the local government shall commence the scoping
30 consultation within 30 days of receiving that response.

31 (B) The scoping consultation shall recognize that California
32 Native American tribes traditionally and culturally affiliated with
33 a geographic area have knowledge and expertise concerning the
34 resources at issue and shall take into account the cultural
35 significance of the resource to the culturally affiliated California
36 Native American tribe.

37 (C) The parties to a scoping consultation conducted pursuant
38 to this subdivision shall be the local government and any California
39 Native American tribe traditionally and culturally affiliated with
40 the geographic area of the proposed development. More than one

1 California Native American tribe traditionally and culturally
2 affiliated with the geographic area of the proposed development
3 may participate in the scoping consultation. However, the local
4 government, upon the request of any California Native American
5 tribe traditionally and culturally affiliated with the geographic area
6 of the proposed development, shall engage in a separate scoping
7 consultation with that California Native American tribe. The
8 development proponent and its consultants may participate in a
9 scoping consultation process conducted pursuant to this subdivision
10 if all of the following conditions are met:

11 (i) The development proponent and its consultants agree to
12 respect the principles set forth in this subdivision.

13 (ii) The development proponent and its consultants engage in
14 the scoping consultation in good faith.

15 (iii) The California Native American tribe participating in the
16 scoping consultation approves the participation of the development
17 proponent and its consultants. The California Native American
18 tribe may rescind its approval at any time during the scoping
19 consultation, either for the duration of the scoping consultation or
20 with respect to any particular meeting or discussion held as part
21 of the scoping consultation.

22 (D) The participants to a scoping consultation pursuant to this
23 subdivision shall comply with all of the following confidentiality
24 requirements:

25 (i) Section 7927.000.

26 (ii) Section 7927.005.

27 (iii) Subdivision (c) of Section 21082.3 of the Public Resources
28 Code.

29 (iv) Subdivision (d) of Section 15120 of Title 14 of the
30 California Code of Regulations.

31 (v) Any additional confidentiality standards adopted by the
32 California Native American tribe participating in the scoping
33 consultation.

34 (E) The California Environmental Quality Act (Division 13
35 (commencing with Section 21000) of the Public Resources Code)
36 shall not apply to a scoping consultation conducted pursuant to
37 this subdivision.

38 (2) (A) If, after concluding the scoping consultation, the parties
39 find that no potential tribal cultural resource would be affected by
40 the proposed development, the development proponent may submit

1 an application for the proposed development that is subject to the
2 streamlined, ministerial approval process described in subdivision
3 (c).

4 (B) If, after concluding the scoping consultation, the parties
5 find that a potential tribal cultural resource could be affected by
6 the proposed development and an enforceable agreement is
7 documented between the California Native American tribe and the
8 local government on methods, measures, and conditions for tribal
9 cultural resource treatment, the development proponent may submit
10 the application for a development subject to the streamlined,
11 ministerial approval process described in subdivision (c). The local
12 government shall ensure that the enforceable agreement is included
13 in the requirements and conditions for the proposed development.

14 (C) If, after concluding the scoping consultation, the parties
15 find that a potential tribal cultural resource could be affected by
16 the proposed development and an enforceable agreement is not
17 documented between the California Native American tribe and the
18 local government regarding methods, measures, and conditions
19 for tribal cultural resource treatment, the development shall not
20 be eligible for the streamlined, ministerial approval process
21 described in subdivision (c).

22 (D) For purposes of this paragraph, a scoping consultation shall
23 be deemed to be concluded if either of the following occur:

24 (i) The parties to the scoping consultation document an
25 enforceable agreement concerning methods, measures, and
26 conditions to avoid or address potential impacts to tribal cultural
27 resources that are or may be present.

28 (ii) One or more parties to the scoping consultation, acting in
29 good faith and after reasonable effort, conclude that a mutual
30 agreement on methods, measures, and conditions to avoid or
31 address impacts to tribal cultural resources that are or may be
32 present cannot be reached.

33 (E) If the development or environmental setting substantially
34 changes after the completion of the scoping consultation, the local
35 government shall notify the California Native American tribe of
36 the changes and engage in a subsequent scoping consultation if
37 requested by the California Native American tribe.

38 (3) A local government may only accept an application for
39 streamlined, ministerial approval pursuant to this section if one of
40 the following applies:

1 (A) A California Native American tribe that received a formal
2 notice of the development proponent's notice of intent to submit
3 an application pursuant to subclause (I) of clause (iii) of
4 subparagraph (A) of paragraph (1) did not accept the invitation to
5 engage in a scoping consultation.

6 (B) The California Native American tribe accepted an invitation
7 to engage in a scoping consultation pursuant to subclause (II) of
8 clause (iii) of subparagraph (A) of paragraph (1) but substantially
9 failed to engage in the scoping consultation after repeated
10 documented attempts by the local government to engage the
11 California Native American tribe.

12 (C) The parties to a scoping consultation pursuant to this
13 subdivision find that no potential tribal cultural resource will be
14 affected by the proposed development pursuant to subparagraph
15 (A) of paragraph (2).

16 (D) A scoping consultation between a California Native
17 American tribe and the local government has occurred in
18 accordance with this subdivision and resulted in agreement
19 pursuant to subparagraph (B) of paragraph (2).

20 (4) A project shall not be eligible for the streamlined, ministerial
21 process described in subdivision (c) if any of the following apply:

22 (A) There is a tribal cultural resource that is on a national, state,
23 tribal, or local historic register list located on the site of the project.

24 (B) There is a potential tribal cultural resource that could be
25 affected by the proposed development and the parties to a scoping
26 consultation conducted pursuant to this subdivision do not
27 document an enforceable agreement on methods, measures, and
28 conditions for tribal cultural resource treatment, as described in
29 subparagraph (C) of paragraph (2).

30 (C) The parties to a scoping consultation conducted pursuant
31 to this subdivision do not agree as to whether a potential tribal
32 cultural resource will be affected by the proposed development.

33 (5) (A) If, after a scoping consultation conducted pursuant to
34 this subdivision, a project is not eligible for the streamlined,
35 ministerial process described in subdivision (c) for any or all of
36 the following reasons, the local government shall provide written
37 documentation of that fact, and an explanation of the reason for
38 which the project is not eligible, to the development proponent
39 and to any California Native American tribe that is a party to that
40 scoping consultation:

1 (i) There is a tribal cultural resource that is on a national, state,
2 tribal, or local historic register list located on the site of the project,
3 as described in subparagraph (A) of paragraph (4).

4 (ii) The parties to the scoping consultation have not documented
5 an enforceable agreement on methods, measures, and conditions
6 for tribal cultural resource treatment, as described in subparagraph
7 (C) of paragraph (2) and subparagraph (B) of paragraph (4).

8 (iii) The parties to the scoping consultation do not agree as to
9 whether a potential tribal cultural resource will be affected by the
10 proposed development, as described in subparagraph (C) of
11 paragraph (4).

12 (B) The written documentation provided to a development
13 proponent pursuant to this paragraph shall include information on
14 how the development proponent may seek a conditional use permit
15 or other discretionary approval of the development from the local
16 government.

17 (6) This section is not intended, and shall not be construed, to
18 limit consultation and discussion between a local government and
19 a California Native American tribe pursuant to other applicable
20 law, confidentiality provisions under other applicable law, the
21 protection of religious exercise to the fullest extent permitted under
22 state and federal law, or the ability of a California Native American
23 tribe to submit information to the local government or participate
24 in any process of the local government.

25 (7) For purposes of this subdivision:

26 (A) “Consultation” means the meaningful and timely process
27 of seeking, discussing, and considering carefully the views of
28 others, in a manner that is cognizant of all parties’ cultural values
29 and, where feasible, seeking agreement. Consultation between
30 local governments and Native American tribes shall be conducted
31 in a way that is mutually respectful of each party’s sovereignty.
32 Consultation shall also recognize the tribes’ potential needs for
33 confidentiality with respect to places that have traditional tribal
34 cultural importance. A lead agency shall consult the tribal
35 consultation best practices described in the “State of California
36 Tribal Consultation Guidelines: Supplement to the General Plan
37 Guidelines” prepared by the Office of Planning and Research.

38 (B) “Scoping” means the act of participating in early discussions
39 or investigations between the local government and California
40 Native American tribe, and the development proponent if

1 authorized by the California Native American tribe, regarding the
2 potential effects a proposed development could have on a potential
3 tribal cultural resource, as defined in Section 21074 of the Public
4 Resources Code, or California Native American tribe, as defined
5 in Section 21073 of the Public Resources Code.

6 (8) This subdivision shall not apply to any project that has been
7 approved under the streamlined, ministerial approval process
8 provided under this section before the effective date of the act
9 adding this subdivision.

10 (c) (1) ~~If~~ *Notwithstanding any local law, if* a local government's
11 planning director or ~~any equivalent local government staff,~~
12 ~~including all relevant planning and permitting departments,~~
13 *equivalent position* determines that a development submitted
14 pursuant to this section is consistent with the objective planning
15 standards specified in subdivision (a) and pursuant to paragraph
16 (3) of this subdivision, ~~if~~ *the local government* shall approve the
17 development. Upon a determination that a development submitted
18 pursuant to this section is in conflict with any of the objective
19 planning standards specified in subdivision (a), the local
20 government staff or relevant local planning and permitting
21 department that made the determination shall provide the
22 development proponent written documentation of which standard
23 or standards the development conflicts with, and an explanation
24 for the reason or reasons the development conflicts with that
25 standard or standards, as follows:

26 (A) Within 60 days of submittal of the development to the local
27 government pursuant to this section if the development contains
28 150 or fewer housing units.

29 (B) Within 90 days of submittal of the development to the local
30 government pursuant to this section if the development contains
31 more than 150 housing units.

32 (2) If the local government's planning director or ~~any equivalent~~
33 ~~local government staff~~ *equivalent position* fails to provide the
34 required documentation pursuant to paragraph (1), the development
35 shall be deemed to satisfy the objective planning standards
36 specified in subdivision (a).

37 (3) For purposes of this section, a development is consistent
38 with the objective planning standards specified in subdivision (a)
39 if there is substantial evidence that would allow a reasonable person
40 to conclude that the development is consistent with the objective

1 planning standards. The local government shall not determine that
2 a development, including an application for a modification under
3 subdivision ~~(g)~~, (h), is in conflict with the objective planning
4 standards on the basis that application materials are not included,
5 if the application contains substantial evidence that would allow
6 a reasonable person to conclude that the development is consistent
7 with the objective planning standards.

8 ~~(4) For purposes of evaluating consistency with the objective~~
9 ~~planning standards under this section, the local government shall~~
10 ~~not require a development proponent to provide consultant studies~~
11 ~~requiring presubmittal scope approval by the local government or~~
12 ~~other studies or materials that are unnecessary to ascertain~~
13 ~~consistency with the objective planning standards.~~

14 *(4) Upon submittal of an application for streamlined, ministerial*
15 *approval pursuant to this section to the local government, all*
16 *departments of the local government that are required to issue an*
17 *approval of the development prior to the granting of an entitlement*
18 *shall comply with the requirements of this section within the time*
19 *periods specified in paragraph (1).*

20 (d) (1) Any design review of the development may be conducted
21 by the local government's planning commission or any equivalent
22 board or commission responsible for design review. That design
23 review shall be objective and be strictly focused on assessing
24 compliance with criteria required for streamlined projects, as well
25 as any reasonable objective design standards published and adopted
26 by ordinance or resolution by a local jurisdiction before submission
27 of a development application, and shall be broadly applicable to
28 development within the jurisdiction. That design review shall be
29 completed, and if the development is consistent with all objective
30 standards, the local government shall approve the development as
31 follows and shall not in any way inhibit, chill, or preclude the
32 ministerial approval provided by this section or its effect, as
33 applicable:

34 (A) Within 90 days of submittal of the development to the local
35 government pursuant to this section if the development contains
36 150 or fewer housing units.

37 (B) Within 180 days of submittal of the development to the
38 local government pursuant to this section if the development
39 contains more than 150 housing units.

1 (2) If the development is consistent with the requirements of
2 subparagraph (A) or (B) of paragraph (9) of subdivision (a) and
3 is consistent with all objective subdivision standards in the local
4 subdivision ordinance, an application for a subdivision pursuant
5 to the Subdivision Map Act (Division 2 (commencing with Section
6 66410)) shall be exempt from the requirements of the California
7 Environmental Quality Act (Division 13 (commencing with Section
8 21000) of the Public Resources Code) and shall be subject to the
9 public oversight timelines set forth in paragraph (1).

10 (3) If a local government determines that a development
11 submitted pursuant to this section is in conflict with any of the
12 standards imposed pursuant to paragraph (1), it shall provide the
13 development proponent written documentation of which objective
14 standard or standards the development conflicts with, and an
15 explanation for the reason or reasons the development conflicts
16 with that objective standard or standards consistent with the
17 timelines described in paragraph (1) of subdivision (c).

18 (e) (1) Notwithstanding any other law, a local government,
19 whether or not it has adopted an ordinance governing automobile
20 parking requirements in multifamily developments, shall not
21 impose automobile parking standards for a streamlined
22 development that was approved pursuant to this section in any of
23 the following instances:

24 (A) The development is located within one-half mile of public
25 transit.

26 (B) The development is located within an architecturally and
27 historically significant historic district.

28 (C) When on-street parking permits are required but not offered
29 to the occupants of the development.

30 (D) When there is a car share vehicle located within one block
31 of the development.

32 (2) If the development does not fall within any of the categories
33 described in paragraph (1), the local government shall not impose
34 automobile parking requirements for streamlined developments
35 approved pursuant to this section that exceed one parking space
36 per unit.

37 (f) *Notwithstanding any law, a local government shall not*
38 *require any of the following prior to approving a development that*
39 *meets the requirements of this section:*

1 (1) *Studies, information, or other materials that do not pertain*
2 *directly to determining whether the development is consistent with*
3 *the objective planning standards applicable to the development.*

4 (2) (A) *Compliance with any standards necessary to receive a*
5 *postentitlement permit.*

6 (B) *This paragraph does not prohibit a local agency from*
7 *requiring compliance with any standards necessary to receive a*
8 *postentitlement permit after a permit has been issued pursuant to*
9 *this section.*

10 (C) *For purposes of this paragraph, “postentitlement permit”*
11 *has the same meaning as provided in subparagraph (A) of*
12 *paragraph (3) of subdivision (j) of Section 65913.3.*

13 (f)

14 (g) (1) *If a local government approves a development pursuant*
15 *to this section, then, notwithstanding any other law, that approval*
16 *shall not expire if the project satisfies both of the following*
17 *requirements:*

18 (A) *The project includes public investment in housing*
19 *affordability, beyond tax credits.*

20 (B) *At least 50 percent of the units are affordable to households*
21 *making at or below 80 percent of the area median income.*

22 (2) (A) *If a local government approves a development pursuant*
23 *to this section, and the project does not satisfy the requirements*
24 *of subparagraphs (A) and (B) of paragraph (1), that approval shall*
25 *remain valid for three years from the date of the final action*
26 *establishing that approval, or if litigation is filed challenging that*
27 *approval, from the date of the final judgment upholding that*
28 *approval. Approval shall remain valid for a project provided*
29 *construction activity, including demolition and grading activity,*
30 *on the development site has begun pursuant to a permit issued by*
31 *the local jurisdiction and is in progress. For purposes of this*
32 *subdivision, “in progress” means one of the following:*

33 (i) *The construction has begun and has not ceased for more than*
34 *180 days.*

35 (ii) *If the development requires multiple building permits, an*
36 *initial phase has been completed, and the project proponent has*
37 *applied for and is diligently pursuing a building permit for a*
38 *subsequent phase, provided that once it has been issued, the*
39 *building permit for the subsequent phase does not lapse.*

1 (B) Notwithstanding subparagraph (A), a local government may
2 grant a project a one-time, one-year extension if the project
3 proponent can provide documentation that there has been
4 significant progress toward getting the development construction
5 ready, such as filing a building permit application.

6 (3) If the development proponent requests a modification
7 pursuant to subdivision ~~(g)~~, (h), then the time during which the
8 approval shall remain valid shall be extended for the number of
9 days between the submittal of a modification request and the date
10 of its final approval, plus an additional 180 days to allow time to
11 obtain a building permit. If litigation is filed relating to the
12 modification request, the time shall be further extended during the
13 pendency of the litigation. The extension required by this paragraph
14 shall only apply to the first request for a modification submitted
15 by the development proponent.

16 (4) The amendments made to this subdivision by the act that
17 added this paragraph shall also be retroactively applied to
18 developments approved prior to January 1, 2022.

19 ~~(g)~~

20 (h) (1) (A) A development proponent may request a
21 modification to a development that has been approved under the
22 streamlined, ministerial approval process provided in subdivision
23 (c) if that request is submitted to the local government before the
24 issuance of the final building permit required for construction of
25 the development.

26 (B) Except as provided in paragraph (3), the local government
27 shall approve a modification if it determines that the modification
28 is consistent with the objective planning standards specified in
29 subdivision (a) that were in effect when the original development
30 application was first submitted.

31 (C) The local government shall evaluate any modifications
32 requested pursuant to this subdivision for consistency with the
33 objective planning standards using the same assumptions and
34 analytical methodology that the local government originally used
35 to assess consistency for the development that was approved for
36 streamlined, ministerial approval pursuant to subdivision (c).

37 (D) A guideline that was adopted or amended by the department
38 pursuant to subdivision ~~(m)~~ (n) after a development was approved
39 through the streamlined, ministerial approval process described in

1 subdivision (c) shall not be used as a basis to deny proposed
2 modifications.

3 (2) Upon receipt of the development proponent’s application
4 requesting a modification, the local government shall determine
5 if the requested modification is consistent with the objective
6 planning standard and either approve or deny the modification
7 request within 60 days after submission of the modification, or
8 within 90 days if design review is required.

9 (3) Notwithstanding paragraph (1), the local government may
10 apply objective planning standards adopted after the development
11 application was first submitted to the requested modification in
12 any of the following instances:

13 (A) The development is revised such that the total number of
14 residential units or total square footage of construction changes
15 by 15 percent or more. The calculation of the square footage of
16 construction changes shall not include underground space.

17 (B) The development is revised such that the total number of
18 residential units or total square footage of construction changes
19 by 5 percent or more and it is necessary to subject the development
20 to an objective standard beyond those in effect when the
21 development application was submitted in order to mitigate or
22 avoid a specific, adverse impact, as that term is defined in
23 subparagraph (A) of paragraph (1) of subdivision (j) of Section
24 65589.5, upon the public health or safety and there is no feasible
25 alternative method to satisfactorily mitigate or avoid the adverse
26 impact. The calculation of the square footage of construction
27 changes shall not include underground space.

28 (C) (i) Objective building standards contained in the California
29 Building Standards Code (Title 24 of the California Code of
30 Regulations), including, but not limited to, building plumbing,
31 electrical, fire, and grading codes, may be applied to all
32 modification applications that are submitted prior to the first
33 building permit application. Those standards may be applied to
34 modification applications submitted after the first building permit
35 application if agreed to by the development proponent.

36 (ii) The amendments made to clause (i) by the act that added
37 clause (i) shall also be retroactively applied to modification
38 applications submitted prior to January 1, 2022.

39 (4) The local government’s review of a modification request
40 pursuant to this subdivision shall be strictly limited to determining

1 whether the modification, including any modification to previously
2 approved density bonus concessions or waivers, modify the
3 development's consistency with the objective planning standards
4 and shall not reconsider prior determinations that are not affected
5 by the modification.

6 ~~(h)~~

7 (i) (1) A local government shall not adopt or impose any
8 requirement, including, but not limited to, increased fees or
9 inclusionary housing requirements, that applies to a project solely
10 or partially on the basis that the project is eligible to receive
11 ministerial or streamlined approval pursuant to this section.

12 (2) (A) A local government shall issue a subsequent permit
13 required for a development approved under this section if the
14 application substantially complies with the development as it was
15 approved pursuant to subdivision (c). Upon receipt of an
16 application for a subsequent permit, the local government shall
17 process the permit without unreasonable delay and shall not impose
18 any procedure or requirement that is not imposed on projects that
19 are not approved pursuant to this section. The local government
20 shall consider the application for subsequent permits based upon
21 the objective standards specified in any state or local laws that
22 were in effect when the original development application was
23 submitted, unless the development proponent agrees to a change
24 in objective standards. Issuance of subsequent permits shall
25 implement the approved development, and review of the permit
26 application shall not inhibit, chill, or preclude the development.
27 For purposes of this paragraph, a "subsequent permit" means a
28 permit required subsequent to receiving approval under subdivision
29 (c), and includes, but is not limited to, demolition, grading,
30 encroachment, and building permits and final maps, if necessary.

31 (B) The amendments made to subparagraph (A) by the act that
32 added this subparagraph shall also be retroactively applied to
33 subsequent permit applications submitted prior to January 1, 2022.

34 (3) (A) If a public improvement is necessary to implement a
35 development that is subject to the streamlined, ministerial approval
36 pursuant to this section, including, but not limited to, a bicycle
37 lane, sidewalk or walkway, public transit stop, driveway, street
38 paving or overlay, a curb or gutter, a modified intersection, a street
39 sign or street light, landscape or hardscape, an above-ground or
40 underground utility connection, a water line, fire hydrant, storm

1 or sanitary sewer connection, retaining wall, and any related work,
2 and that public improvement is located on land owned by the local
3 government, to the extent that the public improvement requires
4 approval from the local government, the local government shall
5 not exercise its discretion over any approval relating to the public
6 improvement in a manner that would inhibit, chill, or preclude the
7 development.

8 (B) If an application for a public improvement described in
9 subparagraph (A) is submitted to a local government, the local
10 government shall do all of the following:

11 (i) Consider the application based upon any objective standards
12 specified in any state or local laws that were in effect when the
13 original development application was submitted.

14 (ii) Conduct its review and approval in the same manner as it
15 would evaluate the public improvement if required by a project
16 that is not eligible to receive ministerial or streamlined approval
17 pursuant to this section.

18 (C) If an application for a public improvement described in
19 subparagraph (A) is submitted to a local government, the local
20 government shall not do either of the following:

21 (i) Adopt or impose any requirement that applies to a project
22 solely or partially on the basis that the project is eligible to receive
23 ministerial or streamlined approval pursuant to this section.

24 (ii) Unreasonably delay in its consideration, review, or approval
25 of the application.

26 (i)

27 (j) (1) This section shall not affect a development proponent's
28 ability to use any alternative streamlined by right permit processing
29 adopted by a local government, including the provisions of
30 subdivision (i) of Section 65583.2.

31 (2) This section shall not prevent a development from also
32 qualifying as a housing development project entitled to the
33 protections of Section 65589.5. This paragraph does not constitute
34 a change in, but is declaratory of, existing law.

35 (j)

36 (k) The California Environmental Quality Act (Division 13
37 (commencing with Section 21000) of the Public Resources Code)
38 does not apply to actions taken by a state agency, local government,
39 or the San Francisco Bay Area Rapid Transit District to:

1 (1) Lease, convey, or encumber land owned by the local
 2 government or the San Francisco Bay Area Rapid Transit District
 3 or to facilitate the lease, conveyance, or encumbrance of land
 4 owned by the local government, or for the lease of land owned by
 5 the San Francisco Bay Area Rapid Transit District in association
 6 with an eligible TOD project, as defined pursuant to Section
 7 29010.1 of the Public Utilities Code, nor to any decisions
 8 associated with that lease, or to provide financial assistance to a
 9 development that receives streamlined approval pursuant to this
 10 section that is to be used for housing for persons and families of
 11 very low, low, or moderate income, as defined in Section 50093
 12 of the Health and Safety Code.

13 (2) Approve improvements located on land owned by the local
 14 government or the San Francisco Bay Area Rapid Transit District
 15 that are necessary to implement a development that receives
 16 streamlined approval pursuant to this section that is to be used for
 17 housing for persons and families of very low, low, or moderate
 18 income, as defined in Section 50093 of the Health and Safety Code.

19 ~~(k)~~

20 (l) For purposes of establishing the total number of units in a
 21 development under this chapter, a development or development
 22 project includes both of the following:

23 (1) All projects developed on a site, regardless of when those
 24 developments occur.

25 (2) All projects developed on sites adjacent to a site developed
 26 pursuant to this chapter if, after January 1, 2023, the adjacent site
 27 had been subdivided from the site developed pursuant to this
 28 chapter.

29 ~~(t)~~

30 (m) For purposes of this section, the following terms have the
 31 following meanings:

32 (1) “Affordable housing cost” has the same meaning as set forth
 33 in Section 50052.5 of the Health and Safety Code.

34 (2) (A) Subject to the qualification provided by subparagraphs
 35 (B) and (C), “affordable rent” has the same meaning as set forth
 36 in Section 50053 of the Health and Safety Code.

37 (B) For a development for which an application pursuant to this
 38 section was submitted prior to January 1, 2019, that includes 500
 39 units or more of housing, and that dedicates 50 percent of the total
 40 number of units, before calculating any density bonus, to housing

1 affordable to households making at, or below, 80 percent of the
2 area median income, affordable rent for at least 30 percent of these
3 units shall be set at an affordable rent as defined in subparagraph
4 (A) and “affordable rent” for the remainder of these units shall
5 mean a rent that is consistent with the maximum rent levels for a
6 housing development that receives an allocation of state or federal
7 low-income housing tax credits from the California Tax Credit
8 Allocation Committee.

9 (C) For a development that dedicates 100 percent of units,
10 exclusive of a manager’s unit or units, to lower income households,
11 “affordable rent” shall mean a rent that is consistent with the
12 maximum rent levels stipulated by the public program providing
13 financing for the development.

14 (3) “Department” means the Department of Housing and
15 Community Development.

16 (4) “Development proponent” means the developer who submits
17 a housing development project application to a local government
18 under the streamlined, ministerial review process pursuant to this
19 section.

20 (5) “Completed entitlements” means a housing development
21 that has received all the required land use approvals or entitlements
22 necessary for the issuance of a building permit.

23 (6) “Health care expenditures” include contributions under
24 Section 401(a), 501(c), or 501(d) of the Internal Revenue Code
25 and payments toward “medical care,” as defined in Section
26 213(d)(1) of the Internal Revenue Code.

27 (7) “Housing development project” has the same meaning as in
28 Section 65589.5.

29 (8) “Locality” or “local government” means a city, including a
30 charter city, a county, including a charter county, or a city and
31 county, including a charter city and county.

32 (9) “Moderate-income housing units” means housing units with
33 an affordable housing cost or affordable rent for persons and
34 families of moderate income, as that term is defined in Section
35 50093 of the Health and Safety Code.

36 ~~(10) “Objective planning standards” shall not include standards~~
37 ~~in the California Building Standards Code (Title 24 of the~~
38 ~~California Code of Regulations), local building codes, fire codes,~~
39 ~~noise ordinances, other codes requiring detailed technical~~
40 ~~specifications, studies that are evaluated with subsequent permits,~~

1 or other standards that are not reasonably ascertainable by the local
2 government within the time limits set forth in subdivisions (c) and
3 (d). Excluded objective planning standards include, but are not
4 limited to, construction logistics plans, plumbing plans, electrical
5 plans, grading, excavation plans, geotechnical studies, and offsite
6 public improvement plans.

7 ~~(11)~~

8 (10) “Production report” means the information reported
9 pursuant to subparagraph (H) of paragraph (2) of subdivision (a)
10 of Section 65400.

11 ~~(12)~~

12 (11) “State agency” includes every state office, officer,
13 department, division, bureau, board, and commission, but does not
14 include the California State University or the University of
15 California.

16 ~~(13)~~

17 (12) “Reporting period” means either of the following:

18 (A) The first half of the regional housing needs assessment
19 cycle.

20 (B) The last half of the regional housing needs assessment cycle.

21 ~~(14)~~

22 (13) “Urban uses” means any current or former residential,
23 commercial, public institutional, transit or transportation passenger
24 facility, or retail use, or any combination of those uses.

25 ~~(m)~~

26 (n) The department may review, adopt, amend, and repeal
27 guidelines to implement uniform standards or criteria that
28 supplement or clarify the terms, references, or standards set forth
29 in this section. Any guidelines or terms adopted pursuant to this
30 subdivision shall not be subject to Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code.

33 ~~(n)~~

34 (o) The determination of whether an application for a
35 development is subject to the streamlined ministerial approval
36 process provided by subdivision (c) is not a “project” as defined
37 in Section 21065 of the Public Resources Code.

38 ~~(o)~~

39 (p) Notwithstanding any law, for purposes of this section and
40 for development on property owned by or leased to the state, the

1 Department of General Services may act in the place of a locality
2 or local government, at the discretion of the department.

3 ~~(p)~~

4 (q) The provisions of clause (iii) of subparagraph (E) of
5 paragraph (8) of subdivision (a) relating to health care expenditures
6 are distinct and severable from the remaining provisions of this
7 section. However, the remaining portions of paragraph (8) of
8 subdivision (a) are a material and integral part of this section and
9 are not severable. If any provision or application of paragraph (8)
10 of subdivision (a) is held invalid, this entire section shall be null
11 and void.

12 ~~(q)~~

13 (r) It is the policy of the state that this section be interpreted
14 and implemented in a manner to afford the fullest possible weight
15 to the interest of, and the approval and provision of, increased
16 housing supply.

17 SEC. 3. The Legislature finds and declares that ensuring access
18 to affordable housing is a matter of statewide concern and is not
19 a municipal affair as that term is used in Section 5 of Article XI
20 of the California Constitution. Therefore, Section 2 of this act
21 amending Section 65913.4 of the Government Code applies to all
22 cities, including charter cities.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act or because costs that may be
28 incurred by a local agency or school district will be incurred
29 because this act creates a new crime or infraction, eliminates a
30 crime or infraction, or changes the penalty for a crime or infraction,
31 within the meaning of Section 17556 of the Government Code, or
32 changes the definition of a crime within the meaning of Section 6
33 of Article XIII B of the California Constitution.

Senate Bill No. 35

CHAPTER 366

An act to amend Sections 65400 and 65582.1 of, and to add and repeal Section 65913.4 of, the Government Code, relating to housing.

[Approved by Governor September 29, 2017. Filed with Secretary of State September 29, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 35, Wiener. Planning and zoning: affordable housing: streamlined approval process.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs. Existing law requires the housing element portion of the annual report to be prepared through the use of forms and definitions adopted by the department pursuant to the Administrative Procedure Act.

This bill would require the housing element portion of the annual report to be prepared through the use of standards, forms, and definitions adopted by the department. The bill would eliminate the requirement that the forms and definitions be adopted by the department pursuant to the Administrative Procedure Act and would instead authorize the department to review, adopt, amend, and repeal the standards, forms, or definitions, as provided. The bill would also require the planning agency to include in its annual report specified information regarding units of net new housing, including rental housing and for-sale housing that have been issued a completed entitlement, building permit, or certificate of occupancy. The bill would also require the Department of Housing and Community Development to post an annual report submitted pursuant to the requirement described above on its Internet Web site, as provided.

(2) Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law

provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would authorize a development proponent to submit an application for a multifamily housing development, which satisfies specified planning objective standards, that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit. The bill would require a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of those objective standards by a specified time; otherwise, the development is deemed to comply with those standards. The bill would limit the authority of a local government to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that if a local government approves a project pursuant to that process, that approval will not expire if that project includes investment in housing affordability, and would otherwise provide that the approval of a project expire automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would provide that approval pursuant to its provisions would remain valid for three years and remain valid thereafter so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would prohibit a local government from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions. The bill would repeal these provisions as of January 1, 2026.

(3) The bill would make findings that ensuring access to affordable housing is a matter of statewide concern and declare that its provisions would apply to all cities and counties, including a charter city, a charter county, or a charter city and county.

(4) By imposing new duties upon local agencies with respect to the streamlined approval process and reporting requirement described above, 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.

(5) This bill would incorporate additional changes to Section 65400 of the Government Code proposed by AB 879 to be operative only if this bill and AB 879 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 65582.1 of the Government Code proposed by AB 73 to be operative only if this bill and AB 73 are enacted and this bill is enacted last.

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

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) or Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(D) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing, including both rental housing and housing designated for

home ownership, satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale housing units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier, which must include an assessor's parcel number, but may also include street address or other identifiers.

(E) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(F) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its Internet Web site within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 1.5. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Sections 65583 and 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier which

must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(J) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its Internet Web site within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65582.1 of the Government Code is amended to read:

65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the approval and construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Accessory dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(l) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

(p) Streamlining housing approvals during a housing shortage (Section 65913.4).

SEC. 2.5. Section 65582.1 of the Government Code is amended to read:

65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Accessory dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

- (l) Limiting moratoriums on multifamily housing (Section 65858).
- (m) Prohibiting discrimination against affordable housing (Section 65008).
- (n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).
- (o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).
- (p) Streamlining housing approvals during a housing shortage (Section 65913.4).
- (q) Housing sustainability districts (Chapter 11 (commencing with Section 66200)).

SEC. 3. Section 65913.4 is added to the Government Code, to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(3) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land use restriction for the following applicable minimum durations:

(A) Fifty-five years for units that are rented.

(B) Forty-five years for units that are owned.

(4) The development satisfies both of the following:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period. A locality shall be subject to this subparagraph if it has not submitted an annual housing element report

to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval under this section.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income. If the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that zoning ordinance applies.

(ii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of housing affordable to households making below 80 percent of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to any income level described in clause (i) or (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, “objective zoning standards” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a

city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

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

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

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

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

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

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

(G) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

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

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

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

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

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

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

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

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

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

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

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

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

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

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

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall

not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal bay county.

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

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

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

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

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a

monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

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

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special

Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

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

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

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(d) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing parking requirements in multifamily developments, shall not impose parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(e) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making below 80 percent of the area median income.

(2) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

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

(g) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(h) For purposes of this section:

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

(2) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(3) "Completed entitlements" means a housing development which has received all the required land use approvals or entitlements necessary for the issuance of building permit.

(4) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(5) "Production report" means the information reported pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 65400.

(6) “Subsidized” means units that are price or rent restricted such that the units are permanently affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(7) “Reporting period” means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(8) “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

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

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair. Therefore, the changes made by this act are applicable to a charter city, a charter county, and a charter city and county.

SEC. 5. Each provision of this measure is a material and integral part of this measure, and the provisions of this measure are not severable. If any provision of this measure or its application is held invalid, this entire measure shall be null and void.

SEC. 6. (a) Section 1.5 of this bill incorporates amendments to Section 65400 of the Government Code proposed by both this bill and Assembly Bill 879. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 65400 of the Government Code, and (3) this bill is enacted after Assembly Bill 879, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 65582.1 of the Government Code proposed by both this bill and Assembly Bill 73. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 65582.1 of the Government Code, and (3) this bill is enacted after Assembly Bill 73, in which case Section 2 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Palos Verdes Estates

August 14, 2017

The Honorable Kevin de León
President pro Tempore
California State Senate
State Capitol Building, Room 205
Sacramento, CA 95814
VIA FAX: 916-651-4924

The Honorable Anthony Rendon
Speaker
California State Assembly
State Capitol Building, Room 219
Sacramento, CA 95814
VIA FAX: 916-319-2163

RE: SB 35 (Wiener) Affordable Housing: Streamlined Approval Process.
Notice of Opposition (as amended 7/14/17)

Dear President pro Tempore de León and Speaker Rendon:

The City of Palos Verdes Estates is opposed to SB 35 (Wiener), which would pre-empt local discretionary land use authority by making approvals of certain multifamily developments “ministerial” actions, bypassing the California Environmental Quality Act (CEQA) and public input.

Palos Verdes Estates is a small, 5-square mile residential community. We have 5,000 parcels with no street lights, sidewalks, or signals. Our City is characterized by narrow, steep, winding streets and hillside homes. Over a quarter of the City has been designated as natural parkland. The City retains its unique character through strict zoning and architectural controls that are set forth in a single set of covenants, conditions and restrictions that apply to every home in our community.

Although many of the parcels in the City have already been developed, we are concerned that this legislation will impact future development projects that are adjacent to our City. Should SB 35 be passed and implemented, the following are significant concerns specific to Palos Verdes Estates:

- **Stormwater Runoff**
Palos Verdes Estates is situated on the Palos Verdes Peninsula and already faces challenges in meeting state-mandated regulations for storm water runoff. If multifamily housing units are allowed to bypass CEQA requirements, additional storm water runoff generated by these developments would have detrimental impacts on the sewers, and street infrastructure.
- **Geotechnical Review**
With erosion of land from the ocean on the western side of the City and a fault line running through its northern and western boundaries, allowing development without consideration of these geotechnical issues is a concern.
- **Public Engagement**
Not allowing the public to provide input may result in distrust of government and create tension between neighboring cities and residents.

August 14, 2017

Page Two

Currently, the City of Torrance is considering a development project to build 248 units at the border of Torrance and Palos Verdes Estates. This large project would be located at an intersection that already experiences significant traffic congestion. Many residents have contacted the City with their concerns. In response to the proposed project, the City of Palos Verdes Estates is preparing to submit comments, which will highlight several concerns:

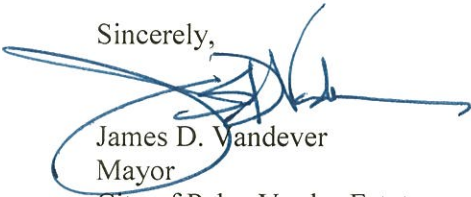
- Noise and air quality impacts due to construction
- Increased traffic congestion
- Preservation of open space
- Impact of parking on residential streets
- Increased noise and light

If this project were to proceed under the proposed legislation, the controls in place to protect the environment and include the public would be eliminated. The significant issues outlined above would not be addressed.

Forcing nearly all communities with a population over 2,500 to “streamline” housing approvals by eliminating opportunities for environmental and public review of major multifamily developments goes against the principles of local democracy and public engagement. While it may be frustrating for some to address neighborhood concerns about traffic, parking and other development impacts, those directly affected by such projects have a right to be heard. Public engagement often leads to better projects.

For these reasons, the City of Palos Verdes Estates opposes SB 35.

Sincerely,



James D. Vandever
Mayor
City of Palos Verdes Estates

cc: Palos Verdes Estates City Council
Senator Ben Allen, District 26
Assemblymember Al Muratsuchi, District 66
Jeffrey Kiernan, League of California Cities, Regional Public Affairs Manager (via email)
Meg Desmond, League of California Cities, mdesmond@cacities.org

CITY OF PALOS VERDES ESTATES

ATTACHMENT D



April 6, 2023

The Honorable Anna Caballero
Chair, Senate Committee on Governance and Finance
State Capitol, Room 407
Sacramento, CA 95814

RE: SB 423 (Wiener) Streamlined housing approvals: multifamily housing developments: SB 35 (Chapter 366, Statutes of 2017) Expansion: Notice of Opposition

Dear Senator Caballero:

The City of Palos Verdes Estates is vehemently opposed to SB 423, which would greatly expand SB 35 (Chapter 366, Statutes of 2017) provisions and eliminate the Jan. 1, 2026 sunset date. Continued efforts to destroy local control by implementing one-size-fits-all solutions to the state's housing supply and affordability crisis continue crippling local government. This is being done without concern for individual cities, citizens, and local choice.

Unfunded state mandates weaken municipalities' balance sheets without solving challenges in unique neighborhoods. Local leaders are working to find creative solutions so homes of all income levels can be built, all while navigating the state's annual barrage of overreaching housing bills that have demonstrated limited success. SB 423 is the latest overreaching bill. This measure would double-down on the recent trend of the state overriding its own mandated local housing plans by forcing cities to approve certain housing projects without regard to the needs of the community, opportunities for environmental review, or public input. Public engagement leads to better projects. Destroying it will increase public distrust in government and result in additional ballot measures limiting housing development.

Targeted, ongoing funding is the only way cities can find community-based solutions that get our residents off the streets and keep them in their homes. California will never produce the number of homes needed with an increasingly state driven, by-right housing approval process. What is really needed is a sustainable state investment that matches the scale of this long-term crisis.

For these reasons, *(by unanimous vote of the City Council)*, the City of Palos Verdes Estates strongly opposes SB 423.

Sincerely,

Jim Roos
Mayor