



MEMORANDUM

Agenda Item: 4
Meeting Date: April 22, 2025

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
FROM: KERRY KALLMAN, CITY MANAGER
SUBJECT: LETTER OF OPPOSITION TO SENATE BILL 79 (WIENER): TRANSIT ORIENTED DEVELOPMENT
DATE: APRIL 22, 2025

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

RECOMMENDATION

That the City Council authorize the Mayor to sign the Letter of Opposition to Senate Bill (SB) 79 (Wiener) – Transit Oriented Development.

BACKGROUND/DISCUSSION

SB 79 (Wiener) includes revisions to Government Code §54221 et. seq., that apply to local agency-owned surplus land, including sites that are leased to transit agencies, and the addition of Chapter 4.1.5 (commencing with §65912.1555) Transit-Oriented Development. SB 79 would require cities to ministerially approve higher-density residential projects (as long as they meet environmental and fire regulations), up to seven stories in height, near transit-oriented development (TOD) stops (as defined), in accordance with a development's proximity to specified tiers of TOD stops, regardless of zoning codes. SB 79 limits the use of local objective development standards and provides transit agencies with increased autonomy over property they own or control, via a permanent operating lease, by allowing them to adopt development standards that are in line with state-defined TOD criteria; it would not grant the transit agencies unchecked authority or broad zoning power.

SB 79 overrides the state's own mandated local housing elements by imposing ministerial approval for development projects near specified TOD stops, that might exceed current development-intensities established in certified housing elements. The bill exempts certain TOD projects on transit agency-controlled land from CEQA review, if the project aligns with specific transit infrastructure improvements. Local governments may adopt local ordinances to implement the provisions of SB 79 but may not preclude development

that meets minimum density and floor area ratios established in the bill. There are specific presumptive provisions for denial of projects in high-resource areas, that those cities are in violation of the Housing Accountability Act (Government Code §65912.157(d)).

This measure applies statewide, to properties that are in defined proximity tiers of major transit stops (rail or ferry service, and bus service with 15-minute headways, that uses transit priority lanes for some or all of the route).

The City of Palos Verdes Estates does not have properties within half a mile of a major transit stop as defined in SB 79 and therefore the provisions of this bill would not apply to any properties in the City. However, SB 79 is opposed by many cities throughout the state including the League of California Cities who has issued an action alert on the bill due to its nature of diminishing local control.

FISCAL IMPACT

There are no direct fiscal impacts associated with opposing the proposed measure

CITY COUNCIL WORK PLAN

Priority – Landuse and Housing

ATTACHMENT

- A. Draft City Letter of Opposition – SB 79
- B. Text of SB 79
- C. California League of Cities – SB 79 Letter of opposition

CITY OF PALOS VERDES ESTATES



April 8, 2025

The Honorable Scott Wiener
Senator, California State Senate
1021 O St, Suite 8620
Sacramento, CA 95814

Subject: SB 79 (Wiener) Transit-oriented Development Notice of Opposition

Dear Senator Wiener:

The City of Palos Verdes Estates expresses strong opposition to your proposed measure SB 79 (Wiener), which would disregard state-certified housing elements and provide increased autonomy to transit agencies, with respect to development standards, in certain circumstances, without the explicit requirement that developers build housing, let alone affordable housing.

SB 79 doubles down on the recent trend of the state overriding its own mandated local housing elements. This latest overreaching effort forces cities to approve transit-oriented development projects near specified transit stops — up to seven stories high and a density of 120 homes per acre — without regard to the community's needs, environmental review, or public input.

Most alarmingly, SB 79 defies cities' general plans and provides transit agencies increased autonomy on property they own or have a permanent easement, regardless of the distance from a transit stop. This broad new authority applies to both residential and commercial development. Transit agencies could develop 100% commercial projects — even at transit stops — and not provide a single new home, while simultaneously making the argument that more housing must be constructed around transit stops.

The City of Palos Verdes Estates appreciates and respects your desire to pursue a housing production proposal. However, as currently drafted, SB 79 will not spur much-needed housing construction in a manner that supports local flexibility, decision-making, and community input.

Senator Wiener

April 8, 2025

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State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements. For these reasons, the City of Rolling Hills Estates opposes SB 79.

Sincerely,

Victoria A. Lozzi

Mayor

City of Palos Verdes Estates

cc:

Senator Ben Allen, 24th CA Senate District

Assemblymember Al Muratsuchi, 66th CA Assembly District League of California Cities (via email: cityletters@calcities.org)

Introduced by Senator Wiener

January 15, 2025

An act to amend Section 54221 of, and to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of, the Government Code, and to add Section 21080.26.5 to the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. Planning and zoning: housing development: transit-oriented development.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "surplus land" for these purposes to mean land owned in fee simple by any local agency for which the local agency's governing body takes formal action declaring that the land is surplus and is not necessary for the agency's use. Existing law defines "agency's use" for these purposes to include land that is being used for agency work or operations, as provided. Existing law exempts from this definition of "agency's use" certain commercial or industrial uses, except that in the case of a local agency that is a district, except a local agency whose primary purpose or mission is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, as specified.

This bill would additionally include land leased to support public transit operations in the definition of "agency's use," as described above. The bill would also revise the definition of "agency's use" with respect to commercial or industrial uses to instead provide that a district

or a public transit operator may use land for commercial or industrial uses or activities, as described above.

(2) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a housing element. Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce, as provided, and provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a residential development proposed within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use on any site zoned for residential, mixed, commercial, or light industrial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that a local government that denies a project meeting the requirements of these provisions located

in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and liable for penalties, as provided. The bill would specify that the a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements under that law.

The bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units. The bill would also authorize a transit agency to adopt objective standards for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, provided that the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

The bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. The bill would permit a local government to adopt an ordinance to implement these provisions, as provided, and would require the local government to submit a copy of this ordinance to the department within 60 days of adoption and the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and a local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

The bill would define various terms for its purposes and make related findings and declarations.

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.

(3) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires

a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects if specified requirements are met, as provided. CEQA includes within these exempt transportation-related projects a public project for the institution or increase of bus rapid transit, bus, or light rail service, or other passenger rail service, that will be exclusively used by low-emission or zero-emission vehicles, on existing public rights-of-way or existing highway rights-of-way.

This bill would exempt from CEQA a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and meets specified requirements. The bill would provide that, for a project that requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, that project would be considered a wholly separate project from the project described in these provisions and shall not be exempt from CEQA.

(4) By increasing the duties of local officials, 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.

~~Existing law, the Planning and Zoning Law, requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Under existing law, a part of the housing element is an assessment of housing needs, which includes the locality's share of the regional housing need. Under existing law, the appropriate council of local governments, or for cities without a council of governments, the Department of Housing and Community Development, adopts a final regional housing need plan that allocates a share of the regional housing~~

~~need to each locality in the region. Existing law requires the Board of Directors of the San Francisco Bay Area Rapid Transit District to adopt by ordinance transit-oriented development (TOD) zoning standards for each station that establish minimum zoning requirements for height, density, parking, and floor area ratio that apply to an eligible TOD project, as provided, and authorizes developers of certain eligible TOD projects to submit an application for a development that is subject to a specified streamlined, ministerial approval process, as provided.~~

~~This bill would declare the intent of the Legislature to enact legislation that would make housing more affordable for California families, reduce greenhouse gas emissions, and enhance public transit systems by, among other things, requiring the upzoning of land near rail stations and rapid bus lines to encourage transit-oriented development. The bill would make related findings and declarations.~~

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

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

1 SECTION 1. Section 54221 of the Government Code is
2 amended to read:

3 54221. As used in this article, the following definitions shall
4 apply:

5 (a) (1) “Local agency” means every city, whether organized
6 under general law or by charter, county, city and county, district,
7 including school, sewer, water, utility, and local and regional park
8 districts of any kind or class, joint powers authority, successor
9 agency to a former redevelopment agency, housing authority, or
10 other political subdivision of this state and any instrumentality
11 thereof that is empowered to acquire and hold real property.

12 (2) The Legislature finds and declares that the term “district”
13 as used in this article includes all districts within the state,
14 including, but not limited to, all special districts, sewer, water,
15 utility, and local and regional park districts, and any other political
16 subdivision of this state that is a district, and therefore the changes
17 in paragraph (1) made by the act adding this paragraph that specify
18 that the provisions of this article apply to all districts, including
19 school, sewer, water, utility, and local and regional park districts
20 of any kind or class, are declaratory of, and not a change in,
21 existing law.

1 (b) (1) “Surplus land” means land owned in fee simple by any
2 local agency for which the local agency’s governing body takes
3 formal action in a regular public meeting declaring that the land
4 is surplus and is not necessary for the agency’s use. Land shall be
5 declared either “surplus land” or “exempt surplus land,” as
6 supported by written findings, before a local agency may take any
7 action to dispose of it consistent with an agency’s policies or
8 procedures. A local agency, on an annual basis, may declare
9 multiple parcels as “surplus land” or “exempt surplus land.”

10 (2) “Surplus land” includes land held in the Community
11 Redevelopment Property Trust Fund pursuant to Section 34191.4
12 of the Health and Safety Code and land that has been designated
13 in the long-range property management plan approved by the
14 Department of Finance pursuant to Section 34191.5 of the Health
15 and Safety Code, either for sale or for future development, but
16 does not include any specific disposal of land to an identified entity
17 described in the plan.

18 (3) Nothing in this article prevents a local agency from obtaining
19 fair market value for the disposition of surplus land consistent with
20 Section 54226.

21 (4) Notwithstanding paragraph (1), a local agency is not required
22 to make a declaration at a public meeting for land that is “exempt
23 surplus land” pursuant to subparagraph (A), (B), (E), (K), (L), or
24 (Q) of paragraph (1) of subdivision (f) if the local agency identifies
25 the land in a notice that is published and available for public
26 comment, including notice to the entities identified in subdivision
27 (a) of Section 54222, at least 30 days before the exemption takes
28 effect.

29 (c) (1) Except as provided in paragraph (2), “agency’s use”
30 shall include, but not be limited to, land that is being used, or is
31 planned to be used pursuant to a written plan adopted by the local
32 agency’s governing board, for agency work or operations,
33 including, but not limited to, utility sites, property owned by a port
34 that is used to support logistics uses, watershed property, land
35 being used for conservation purposes, land for demonstration,
36 exhibition, or educational purposes related to greenhouse gas
37 emissions, sites for broadband equipment or wireless facilities,
38 *land leased to support public transit operations*, and buffer sites
39 near sensitive governmental uses, including, but not limited to,
40 waste disposal sites, and wastewater treatment plants. “Agency’s

1 use” by a local agency that is a district shall also include land
2 disposed for uses described in subparagraph (B) of paragraph (2).

3 (2) (A) “Agency’s use” shall not include commercial or
4 industrial uses or activities, including nongovernmental retail,
5 entertainment, or office development. Property disposed of for the
6 sole purpose of investment or generation of revenue shall not be
7 considered necessary for the agency’s use.

8 (B) In the case of a local agency that is a ~~district, excepting~~
9 ~~those whose primary mission or purpose is to supply the public~~
10 ~~with a transportation system, district or a public transit operator,~~
11 “agency’s use” may include commercial or industrial uses or
12 activities, including nongovernmental retail, entertainment, or
13 office development or be for the sole purpose of investment or
14 generation of revenue if the agency’s governing body takes action
15 in a public meeting declaring that the use of the site will do one
16 of the following:

17 (i) Directly further the express purpose of agency work or
18 operations.

19 (ii) Be expressly authorized by a statute governing the local
20 agency, provided the district complies with Section 54233.5 if
21 applicable.

22 (d) (1) “Dispose” means either of the following:

23 (A) The sale of the surplus land.

24 (B) The entering of a lease for surplus land, which is for a term
25 longer than 15 years, inclusive of any extension or renewal options
26 included in the terms of the initial lease, entered into on or after
27 January 1, 2024.

28 (2) “Dispose” shall not mean either of the following:

29 (A) The entering of a lease for surplus land, which is for a term
30 of 15 years or less, inclusive of any extension or renewal options
31 included in the terms of the initial lease.

32 (B) The entering of a lease for surplus land on which no
33 development or demolition will occur, regardless of the term of
34 the lease.

35 (e) “Open-space purposes” means the use of land for public
36 recreation, enjoyment of scenic beauty, or conservation or use of
37 natural resources.

38 (f) (1) Except as provided in paragraph (2), “exempt surplus
39 land” means any of the following:

1 (A) Surplus land that is transferred pursuant to Section 25539.4
2 or 37364.

3 (B) Surplus land that is less than one-half acre in area and is
4 not contiguous to land owned by a state or local agency that is
5 used for open-space or low- and moderate-income housing
6 purposes.

7 (C) Surplus land that a local agency is exchanging for another
8 property necessary for the agency's use. "Property" may include
9 easements necessary for the agency's use.

10 (D) Surplus land that a local agency is transferring to another
11 local, state, or federal agency, or to a third-party intermediary for
12 future dedication for the receiving agency's use, or to a federally
13 recognized California Indian tribe. If the surplus land is transferred
14 to a third-party intermediary, the receiving agency's use must be
15 contained in a legally binding agreement at the time of transfer to
16 the third-party intermediary.

17 (E) Surplus land that is a former street, right-of-way, or
18 easement, and is conveyed to an owner of an adjacent property.

19 (F) (i) Surplus land that is to be developed for a housing
20 development, which may have ancillary commercial ground floor
21 uses, that restricts 100 percent of the residential units to persons
22 and families of low or moderate income, with at least 75 percent
23 of the residential units restricted to lower income households, as
24 defined in Section 50079.5 of the Health and Safety Code, with
25 an affordable sales price or an affordable rent, as defined in Section
26 50052.5 or 50053 of the Health and Safety Code, for 55 years for
27 rental housing, 45 years for ownership housing, and 50 years for
28 rental or ownership housing located on tribal trust lands, unless a
29 local ordinance or a federal, state, or local grant, tax credit, or other
30 project financing requires a longer period of affordability, and in
31 no event shall the maximum affordable sales price or rent level be
32 higher than 20 percent below the median market rents or sales
33 prices for the neighborhood in which the site is located.

34 (ii) The requirements of clause (i) shall be contained in a
35 covenant or restriction recorded against the surplus land at the time
36 of sale that shall run with the land and be enforceable against any
37 owner who violates the covenant or restriction and each successor
38 in interest who continues the violation.

39 (G) (i) Surplus land that is subject to a local agency's open,
40 competitive solicitation or that is put to open, competitive bid by

1 a local agency, provided that all entities identified in subdivision
2 (a) of Section 54222 will be invited to participate in the process,
3 for a housing or a mixed-use development that is more than one
4 acre and less than 10 acres in area, consisting of either a single
5 parcel, or two or more adjacent or non-adjacent parcels combined,
6 that includes not less than 300 residential units, and that restricts
7 at least 25 percent of the residential units to lower income
8 households, as defined in Section 50079.5 of the Health and Safety
9 Code, with an affordable sales price or an affordable rent, as
10 defined in Sections 50052.5 and 50053 of the Health and Safety
11 Code, for 55 years for rental housing, 45 years for ownership
12 housing, and 50 years for rental or ownership housing located on
13 tribal trust lands, unless a local ordinance or a federal, state, or
14 local grant, tax credit, or other project financing requires a longer
15 period of affordability.

16 (ii) The requirements of clause (i) shall be contained in a
17 covenant or restriction recorded against the surplus land at the time
18 of sale that shall run with the land and be enforceable against any
19 owner who violates the covenant or restriction and each successor
20 in interest who continues the violation.

21 (H) (i) Surplus land totaling 10 or more acres, consisting of
22 either a single parcel, or two or more adjacent or non-adjacent
23 parcels combined for disposition to one or more buyers pursuant
24 to a plan or ordinance adopted by the legislative body of the local
25 agency, or a state statute. That surplus land shall be subject to a
26 local agency's open, competitive solicitation process or put out to
27 open, competitive bid by a local agency, provided that all entities
28 identified in subdivision (a) of Section 54222 will be invited to
29 participate in the process for a housing or mixed-use development.

30 (ii) The aggregate development shall include the greater of the
31 following:

32 (I) Not less than 300 residential units.

33 (II) A number of residential units equal to 10 times the number
34 of acres of the surplus land or 10,000 residential units, whichever
35 is less.

36 (iii) At least 25 percent of the residential units shall be restricted
37 to lower income households, as defined in Section 50079.5 of the
38 Health and Safety Code, with an affordable sales price or an
39 affordable rent pursuant to Sections 50052.5 and 50053 of the
40 Health and Safety Code, for a minimum of 55 years for rental

1 housing, 45 years for ownership housing, and 50 years for rental
2 or ownership housing located on tribal trust lands, unless a local
3 ordinance or a federal, state, or local grant, tax credit, or other
4 project financing requires a longer period of affordability.

5 (iv) If nonresidential development is included in the
6 development pursuant to this subparagraph, at least 25 percent of
7 the total planned units affordable to lower income households shall
8 be made available for lease or sale and permitted for use and
9 occupancy before or at the same time with every 25 percent of
10 nonresidential development made available for lease or sale and
11 permitted for use and occupancy.

12 (v) A violation of this subparagraph is subject to the penalties
13 described in Section 54230.5. Those penalties are in addition to
14 any remedy a court may order for violation of this subparagraph.
15 A local agency shall only dispose of land pursuant to this
16 subparagraph through a disposition and development agreement
17 that includes an indemnification clause that provides that if an
18 action occurs after disposition violates this subparagraph, the
19 person or entity that acquired the property shall be liable for the
20 penalties.

21 (vi) The requirements of clauses (i) to (v), inclusive, shall be
22 contained in a covenant or restriction recorded against the surplus
23 land at the time of sale that shall run with the land and be
24 enforceable against any owner who violates the covenant or
25 restriction and each successor in interest who continues the
26 violation.

27 (I) A mixed-use development, which may include more than
28 one publicly owned parcel, that meets all of the following
29 conditions:

30 (i) The development restricts at least 25 percent of the residential
31 units to lower income households, as defined in Section 50079.5
32 of the Health and Safety Code, with an affordable sales price or
33 an affordable rent, as defined in Sections 50052.5 and 50053 of
34 the Health and Safety Code, for 55 years for rental housing, 45
35 years for ownership housing, and 50 years for rental or ownership
36 housing located on tribal trust lands, unless a local ordinance or a
37 federal, state, or local grant, tax credit, or other project financing
38 requires a longer period of affordability.

1 (ii) At least 50 percent of the square footage of the new
2 construction associated with the development is designated for
3 residential use.

4 (iii) The development is not located in an urbanized area, as
5 defined in Section 21094.5 of the Public Resources Code.

6 (J) (i) Surplus land that is subject to a valid legal restriction
7 that is not imposed by the local agency and that makes housing
8 prohibited, unless there is a feasible method to satisfactorily
9 mitigate or avoid the prohibition on the site. A declaration of
10 exemption pursuant to this subparagraph shall be supported by
11 documentary evidence establishing the valid legal restriction. For
12 the purposes of this section, “documentary evidence” includes,
13 but is not limited to, a contract, agreement, deed restriction, statute,
14 regulation, or other writing that documents the valid legal
15 restriction.

16 (ii) Valid legal restrictions include, but are not limited to, all of
17 the following:

18 (I) Existing constraints under ownership rights or contractual
19 rights or obligations that prevent the use of the property for
20 housing, if the rights or obligations were agreed to prior to
21 September 30, 2019.

22 (II) Conservation or other easements or encumbrances that
23 prevent housing development.

24 (III) Existing leases, or other contractual obligations or
25 restrictions, if the terms were agreed to prior to September 30,
26 2019.

27 (IV) Restrictions imposed by the source of funding that a local
28 agency used to purchase a property, provided that both of the
29 following requirements are met:

30 (ia) The restrictions limit the use of those funds to purposes
31 other than housing.

32 (ib) The proposed disposal of surplus land meets a use consistent
33 with that purpose.

34 (iii) Valid legal restrictions that would make housing prohibited
35 do not include either of the following:

36 (I) An existing nonresidential land use designation on the surplus
37 land.

38 (II) Covenants, restrictions, or other conditions on the property
39 rendered void and unenforceable by any other law, including, but
40 not limited to, Section 714.6 of the Civil Code.

1 (iv) Feasible methods to mitigate or avoid a valid legal
2 restriction on the site do not include a requirement that the local
3 agency acquire additional property rights or property interests
4 belonging to third parties.

5 (K) Surplus land that was granted by the state in trust to a local
6 agency or that was acquired by the local agency for trust purposes
7 by purchase or exchange, and for which disposal of the land is
8 authorized or required subject to conditions established by statute.

9 (L) Land that is subject to either of the following, unless
10 compliance with this article is expressly required:

11 (i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420,
12 or 81422 of the Education Code.

13 (ii) Part 14 (commencing with Section 53570) of Division 31
14 of the Health and Safety Code.

15 (M) Surplus land that is a former military base that was
16 conveyed by the federal government to a local agency, and is
17 subject to Article 8 (commencing with Section 33492.125) of
18 Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code,
19 provided that all of the following conditions are met:

20 (i) The former military base has an aggregate area greater than
21 five acres, is expected to include a mix of residential and
22 nonresidential uses, and is expected to include no fewer than 1,400
23 residential units upon completion of development or redevelopment
24 of the former military base.

25 (ii) The affordability requirements for residential units shall be
26 governed by a settlement agreement entered into prior to September
27 1, 2020. Furthermore, at least 25 percent of the initial 1,400
28 residential units developed shall be restricted to lower income
29 households, as defined in Section 50079.5 of the Health and Safety
30 Code, with an affordable sales price or an affordable rent, as
31 defined in Sections 50052.5 and 50053 of the Health and Safety
32 Code, for 55 years for rental housing, 45 years for ownership
33 housing, and 50 years for rental or ownership housing located on
34 tribal trust lands, unless a local ordinance or a federal, state, or
35 local grant, tax credit, or other project financing requires a longer
36 period of affordability.

37 (iii) Before disposition of the surplus land, the agency adopts
38 written findings that the land is exempt surplus land pursuant to
39 this subparagraph.

1 (iv) Before disposition of the surplus land, the recipient has
2 negotiated a project labor agreement consistent with the local
3 agency’s project stabilization agreement resolution, as adopted on
4 February 2, 2021, and any succeeding ordinance, resolution, or
5 policy, regardless of the length of the agreement between the local
6 agency and the recipient.

7 (v) The agency includes in the annual report required by
8 paragraph (2) of subdivision (a) of Section 65400 the status of
9 development of residential units on the former military base,
10 including the total number of residential units that have been
11 permitted and what percentage of those residential units are
12 restricted for persons and families of low or moderate income, or
13 lower income households, as defined in Section 50079.5 of the
14 Health and Safety Code.

15 A violation of this subparagraph is subject to the penalties
16 described in Section 54230.5. Those penalties are in addition to
17 any remedy a court may order for violation of this subparagraph
18 or the settlement agreement.

19 (N) Real property that is used by a district for an agency’s use
20 expressly authorized in subdivision (c).

21 (O) Land that has been transferred before June 30, 2019, by the
22 state to a local agency pursuant to Section 32667 of the Streets
23 and Highways Code and has a minimum planned residential density
24 of at least 100 dwelling units per acre, and includes 100 or more
25 residential units that are restricted to persons and families of low
26 or moderate income, with an affordable sales price or an affordable
27 rent, as defined in Sections 50052.5 and 50053 of the Health and
28 Safety Code, for 55 years for rental housing, 45 years for ownership
29 housing, and 50 years for rental or ownership housing located on
30 tribal trust lands, unless a local ordinance or a federal, state, or
31 local grant, tax credit, or other project financing requires a longer
32 period of affordability. For purposes of this subparagraph, not
33 more than 20 percent of the affordable units may be restricted to
34 persons and families of moderate income and at least 80 percent
35 of the affordable units must be restricted to lower income
36 households as defined in Section 50079.5 of the Health and Safety
37 Code.

38 (P) (i) Land that meets the following conditions:

39 (I) Land that is subject to a sectional planning area document
40 that meets both of the following:

- 1 (ia) The sectional planning area was adopted prior to January
2 1, 2019.
- 3 (ib) The sectional planning area document is consistent with
4 county and city general plans applicable to the land.
- 5 (II) The land identified in the adopted sectional planning area
6 document was dedicated prior to January 1, 2019.
- 7 (III) On January 1, 2019, the parcels on the land met at least
8 one of the following conditions:
- 9 (ia) The land was subject to an irrevocable offer of dedication
10 of fee interest requiring the land to be used for a specified purpose.
- 11 (ib) The land was acquired through a land exchange subject to
12 a land offer agreement that grants the land's original owner the
13 right to repurchase the land acquired by the local agency pursuant
14 to the agreement if the land will not be developed in a manner
15 consistent with the agreement.
- 16 (ic) The land was subject to a grant deed specifying that the
17 property shall be used for educational uses and limiting other types
18 of uses allowed on the property.
- 19 (IV) At least 25 percent of the units are dedicated to lower
20 income households, as defined in Section 50079.5 of the Health
21 and Safety Code, at an affordable rent, as defined by Section 50053
22 of the Health and Safety Code, or an affordable housing cost, as
23 defined by Section 50052.5 of the Health and Safety Code, and
24 subject to a recorded deed restriction for a period of 55 years for
25 rental units and 45 years for owner-occupied units, unless a local
26 ordinance or a federal, state, or local grant, tax credit, or other
27 project financing requires a longer period of affordability.
- 28 (V) The land is developed at an average density of at least 10
29 units per acre, calculated with respect to the entire sectional
30 planning area.
- 31 (VI) No more than 25 percent of the nonresidential square
32 footage identified in the sectional planning area document receives
33 its first certificate of occupancy before at least 25 percent of the
34 residential square footage identified in the sectional planning area
35 document has received its first certificate of occupancy.
- 36 (VII) No more than 50 percent of the nonresidential square
37 footage identified in the sectional planning area document receives
38 its first certificate of occupancy before at least 50 percent of the
39 residential square footage identified in the sectional planning area
40 document has received its first certificate of occupancy.

1 (VIII) No more than 75 percent of the nonresidential square
2 footage identified in the sectional planning area document shall
3 receive its first certificate of occupancy before at least 75 percent
4 of the residential square footage identified in the sectional planning
5 area document has received its first certificate of occupancy.

6 (ii) The local agency includes in the annual report required by
7 paragraph (2) of subdivision (a) of Section 65400 the status of
8 development, including the total square footage of the residential
9 and nonresidential development, the number of residential units
10 that have been permitted, and what percentage of those residential
11 units are restricted for persons and families of low or moderate
12 income, or lower income households, as defined in Section 50079.5
13 of the Health and Safety Code.

14 (iii) The Department of Housing and Community Development
15 may request additional information from the agency regarding
16 land disposed of pursuant to this subparagraph.

17 (iv) At least 30 days prior to disposing of land declared “exempt
18 surplus land,” a local agency shall provide the Department of
19 Housing and Community Development a written notification of
20 its declaration and findings in a form prescribed by the Department
21 of Housing and Community Development. Within 30 days of
22 receipt of the written notification and findings, the department
23 shall notify the local agency if the department has determined that
24 the local agency is in violation of this article. A local agency that
25 fails to submit the written notification and findings shall be liable
26 for a civil penalty pursuant to this subparagraph. A local agency
27 shall not be liable for the civil penalty if the Department of Housing
28 and Community Development does not notify the agency that the
29 agency is in violation of this article within 30 days of receiving
30 the written notification and findings. Once the department
31 determines that the declarations and findings comply with
32 subclauses (I) to (IV), inclusive, of clause (i), the local agency
33 may proceed with disposal of land pursuant to this subparagraph.
34 This clause is declaratory of, and not a change in, existing law.

35 (v) If the local agency disposes of land in violation of this
36 subparagraph, the local agency shall be liable for a civil penalty
37 calculated as follows:

38 (I) For a first violation, 30 percent of the greater of the final
39 sale price or the fair market value of the land at the time of
40 disposition.

- 1 (II) For a second or subsequent violation, 50 percent of the
2 greater of the final sale price or the fair market value of the land
3 at the time of disposition.
- 4 (III) For purposes of this subparagraph, fair market value shall
5 be determined by an independent appraisal of the land.
- 6 (IV) An action to enforce this subparagraph may be brought by
7 any of the following:
- 8 (ia) An entity identified in subdivisions (a) to (e), inclusive, of
9 Section 54222.
- 10 (ib) A person who would have been eligible to apply for
11 residency in affordable housing had the agency not violated this
12 section.
- 13 (ic) A housing organization, as that term is defined in Section
14 65589.5.
- 15 (id) A beneficially interested person or entity.
- 16 (ie) The Department of Housing and Community Development.
- 17 (V) A penalty assessed pursuant to this subparagraph shall,
18 except as otherwise provided, be deposited into a local housing
19 trust fund. The local agency may elect to instead deposit the penalty
20 moneys into the Building Homes and Jobs Trust Fund or the
21 Housing Rehabilitation Loan Fund. Penalties shall not be paid out
22 of funds already dedicated to affordable housing, including, but
23 not limited to, Low and Moderate Income Housing Asset Funds,
24 funds dedicated to housing for very low, low-, and
25 moderate-income households, and federal HOME Investment
26 Partnerships Program and Community Development Block Grant
27 Program funds. The local agency shall commit and expend the
28 penalty moneys deposited into the local housing trust fund within
29 five years of deposit for the sole purpose of financing newly
30 constructed housing units that are affordable to extremely low,
31 very low, or low-income households.
- 32 (VI) Five years after deposit of the penalty moneys into the
33 local housing trust fund, if the funds have not been expended, the
34 funds shall revert to the state and be deposited in the Building
35 Homes and Jobs Trust Fund or the Housing Rehabilitation Loan
36 Fund for the sole purpose of financing newly constructed housing
37 units located in the same jurisdiction as the surplus land and that
38 are affordable to extremely low, very low, or low-income
39 households. Expenditure of any penalty moneys deposited into the
40 Building Homes and Jobs Trust Fund or the Housing Rehabilitation

1 Loan Fund pursuant to this subdivision shall be subject to
2 appropriation by the Legislature.

3 (vi) For purposes of this subparagraph, the following definitions
4 apply:

5 (I) “Sectional planning area” means an area composed of
6 identifiable planning units, within which common services and
7 facilities, a strong internal unity, and an integrated pattern of land
8 use, circulation, and townscape planning are readily achievable.

9 (II) “Sectional planning area document” means a document or
10 plan that sets forth, at minimum, a site utilization plan of the
11 sectional planning area and development standards for each land
12 use area and designation.

13 (vii) This subparagraph shall become inoperative on January 1,
14 2034.

15 (Q) Land that is owned by a California public-use airport on
16 which residential uses are prohibited pursuant to Federal Aviation
17 Administration Order 5190.6B, Airport Compliance Program,
18 Chapter 20 -- Compatible Land Use and Airspace Protection.

19 (R) Land that is transferred to a community land trust, and all
20 of the following conditions are met:

21 (i) The property is being or will be developed or rehabilitated
22 as any of the following:

23 (I) An owner-occupied single-family dwelling.

24 (II) An owner-occupied unit in a multifamily dwelling.

25 (III) A member-occupied unit in a limited equity housing
26 cooperative.

27 (IV) A rental housing development.

28 (ii) Improvements on the property are or will be available for
29 use and ownership or for rent by qualified persons, as defined in
30 paragraph (6) of subdivision (c) of Section 214.18 of the Revenue
31 and Taxation Code.

32 (iii) (I) A deed restriction or other instrument, requiring a
33 contract or contracts serving as an enforceable restriction on the
34 sale or resale value of owner-occupied units or on the affordability
35 of rental units is recorded on or before the lien date following the
36 acquisition of the property by the community land trust.

37 (II) For the purpose of this clause, the following definitions
38 apply:

39 (ia) “A contract or contracts serving as an enforceable restriction
40 on the sale or resale value of owner-occupied units” means a

1 contract described in paragraph (11) of subdivision (a) of Section
2 402.1 of the Revenue and Taxation Code.

3 (ib) “A contract or contracts serving as an enforceable restriction
4 on the affordability of rental units” means an enforceable and
5 verifiable agreement with a public agency, a recorded deed
6 restriction, or other legal document described in subparagraph (A)
7 of paragraph (2) of subdivision (g) of Section 214 of the Revenue
8 and Taxation Code.

9 (iv) A copy of the deed restriction or other instrument shall be
10 provided to the assessor.

11 (S) (i) For local agencies whose primary mission or purpose is
12 to supply the public with a transportation system, surplus land that
13 is developed for commercial or industrial uses or activities,
14 including nongovernmental retail, entertainment, or office
15 development or for the sole purpose of investment or generation
16 of revenue, if the agency meets all of the following conditions:

17 (I) The agency has an adopted land use plan or policy that
18 designates at least 50 percent of the gross acreage covered by the
19 adopted land use plan or policy for residential purposes. The
20 adopted land use plan or policy shall also require the development
21 of at least 300 residential units, or at least 10 residential units per
22 gross acre, averaged across all land covered by the land use plan
23 or policy, whichever is greater.

24 (II) The agency has an adopted land use plan or policy that
25 requires at least 25 percent of all residential units to be developed
26 on the parcels covered by the adopted land use plan or policy made
27 available to lower income households, as defined in Section 50079
28 of the Health and Safety Code, at an affordable sales price or rented
29 at an affordable rent, as defined in Sections 50052.5 and 50053 of
30 the Health and Safety Code, for 55 years for rental housing and
31 45 years for ownership housing, unless a local ordinance or the
32 terms of a federal, state, or local grant, tax credit, or other project
33 financing requires a longer period of affordability. These terms
34 shall be included in the land use plan or policy and dictate that
35 they will be contained in a covenant or restriction recorded against
36 the surplus land at the time of disposition that shall run with the
37 land and be enforceable against any owner or lessee who violates
38 the covenant or restriction and each successor in interest who
39 continues the violation.

1 (III) Land disposed of for residential purposes shall issue a
 2 competitive request for proposals subject to the local agency’s
 3 open, competitive solicitation process or put out to open,
 4 competitive bid by the local agency, provided that all entities
 5 identified in subdivision (a) of Section 54222 are invited to
 6 participate.

7 (IV) Prior to entering into an agreement to dispose of a parcel
 8 for nonresidential development on land designated for the purposes
 9 authorized pursuant to this subparagraph in an agency’s adopted
 10 land use plan or policy, the agency, since January 1, 2020, must
 11 have entered into an agreement to dispose of a minimum of 25
 12 percent of the land designated for affordable housing pursuant to
 13 subclause (II).

14 (ii) The agency may exempt at one time all parcels covered by
 15 the adopted land use plan or policy pursuant to this subparagraph.

16 (2) Notwithstanding paragraph (1), a written notice of the
 17 availability of surplus land for open-space purposes shall be sent
 18 to the entities described in subdivision (b) of Section 54222 before
 19 disposing of the surplus land, provided the land does not meet the
 20 criteria in subparagraph (H) of paragraph (1), if the land is any of
 21 the following:

- 22 (A) Within a coastal zone.
- 23 (B) Adjacent to a historical unit of the State Parks System.
- 24 (C) Listed on, or determined by the State Office of Historic
 25 Preservation to be eligible for, the National Register of Historic
 26 Places.
- 27 (D) Within the Lake Tahoe region as defined in Section 66905.5.
- 28 (g) “Persons and families of low or moderate income” has the
 29 same meaning as provided in Section 50093 of the Health and
 30 Safety Code.

31 *SEC. 2. Chapter 4.1.5 (commencing with Section 65912.155)*
 32 *is added to Division 1 of Title 7 of the Government Code, to read:*

33
 34 *CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT*
 35

36 *65912.155. The Legislature finds and declares all of the*
 37 *following:*

- 38 (a) *California faces a housing shortage both acute and chronic,*
 39 *particularly in areas with access to robust public transit*
 40 *infrastructure.*

1 (b) *Building more homes near transit access reduces housing*
2 *and transportation costs for California families, and promotes*
3 *environmental sustainability, economic growth, and reduced traffic*
4 *congestion.*

5 (c) *Public transit systems require sustainable funding to provide*
6 *reliable service, especially in areas experiencing increased density*
7 *and ridership. The state does not invest in public transit service*
8 *to the same degree as it does in roads, and the state funds a smaller*
9 *proportion of the state's major transit agencies' operations costs*
10 *than other states with comparable systems. Transit systems in*
11 *other countries derive significant revenue from transit oriented*
12 *development at and near their stations.*

13 65912.156. *For purposes of this chapter, the following*
14 *definitions apply:*

15 (a) *"Adjacent" means sharing a property line with a transit*
16 *station or stop, including any parcels that serve a parking or*
17 *circulation purpose related to the station or stop.*

18 (b) *"Department" means the Department of Housing and*
19 *Community Development.*

20 (c) *"Floor area ratio" means the ratio of net habitable square*
21 *footage dedicated to residential use to the area of the lot.*

22 (d) *"High-frequency commuter rail" means a commuter rail*
23 *service operating a total of at least six trains per hour during*
24 *weekday peak periods at any point in the past three years, or with*
25 *a service plan to implement that frequency in the next three years.*

26 (e) *"High-resource area" means a high-resource neighborhood*
27 *opportunity area, as used in the opportunity area maps published*
28 *annually by the California Tax Credit Allocation Committee and*
29 *the department.*

30 (f) *"Moderate-frequency commuter rail" means a commuter*
31 *rail service with a total of at least 24 daily trains per weekday and*
32 *service frequency below a total of 6 trains per hour during weekday*
33 *peak periods at any point in the past three years, or with a service*
34 *plan to implement that frequency in the next three years.*

35 (g) *"Net habitable square footage" means the finished and*
36 *heated floor area fully enclosed by the inside surface of walls,*
37 *windows, doors, and partitions, and having a headroom of at least*
38 *six and one-half feet, including working, living, eating, cooking,*
39 *sleeping, stair, hall, service, and storage areas, but excluding*

1 garages, carports, parking spaces, cellars, half-stories, and
2 unfinished attics and basements.

3 (h) "Rail transit" has the same meaning as defined in Section
4 99602 of the Public Utilities Code.

5 (i) "Tier 1 transit-oriented development stop" means a
6 transit-oriented development stop served by rail transit, as defined
7 in Section 99602 of the Public Utilities Code, including, but not
8 limited to, high-frequency commuter rail and light rail transit that
9 uses fixed guideway facilities immediately adjacent to the
10 transit-oriented development stop, excluding those rail transit
11 services defined as part of Tier 2 or 3.

12 (j) "Tier 2 transit-oriented development stop" means a
13 transit-oriented development stop served by light rail transit run
14 by a public transit operator that uses fixed guideway facilities that
15 are not grade separated immediately adjacent to the
16 transit-oriented development stop, or fixed guideway or nonfixed
17 guideway bus service with frequencies of 15 minutes or better that
18 uses transit priority lanes for some or all of the route.

19 (k) "Tier 3 transit-oriented development stop" means a
20 transit-oriented development stop served by moderate-frequency
21 commuter rail service or ferry service.

22 (l) "Transit-oriented development stop" means a major transit
23 stop, as defined by Section 21155 of the Public Resources Code,
24 excluding any stop served by rail transit with a frequency of fewer
25 than 10 total trains per weekday.

26 65912.157. (a) A residential development within one-half or
27 one-quarter mile of a transit-oriented development stop shall be
28 an allowed use on any site zoned for residential, mixed,
29 commercial, or light industrial development, if the development
30 complies with the applicable of all of the following requirements:

31 (1) For a residential development within one-quarter mile of a
32 Tier 1 transit-oriented development stop, all of the following apply:

33 (A) A development may be built up to 75 feet high, or up to the
34 local height limit, whichever is greater.

35 (B) A local government shall not impose any maximum density
36 of less than 120 dwelling units per acre. The development
37 proponent may seek a further increased density in accordance
38 with applicable density bonus law.

1 (C) A local government shall not enforce any other local
2 development standard or combination of standards that would
3 prevent achieving a floor area ratio of up to 3.5.

4 (D) A development that otherwise meets the eligibility
5 requirements of Section 65915, including, but not limited to,
6 affordability requirements, shall be eligible for three additional
7 concessions pursuant to Section 65915.

8 (2) For a residential development within one-half mile of a Tier
9 1 transit-oriented development stop, all of the following apply:

10 (A) A development may be built up to 65 feet high, or up to the
11 local height limit, whichever is greater.

12 (B) A local government shall not impose any maximum density
13 standard of less than 100 dwelling units per acre. The
14 development proponent may seek a further increased density in
15 accordance with applicable density bonus law.

16 (C) A local government shall not enforce any other local
17 development standard or combination of standards that would
18 prevent achieving a floor area ratio of up to 3.

19 (D) A development that otherwise meets the eligibility
20 requirements of Section 65915, including, but not limited to,
21 affordability requirements, shall be eligible for two additional
22 concessions pursuant to Section 65915.

23 (3) For a residential development within one-quarter mile of a
24 Tier 2 transit-oriented development stop, all of the following apply:

25 (A) A development may be built up to 65 feet high, or up to the
26 local height limit, whichever is greater.

27 (B) A local government shall not impose any maximum density
28 standard of less than 100 dwelling units per acre. The development
29 proponent may seek a further increased density in accordance
30 with applicable density bonus law.

31 (C) A local government shall not enforce any other local
32 development standard or combination of standards that would
33 prevent achieving a floor area ratio of up to 3.

34 (D) A development that otherwise meets the eligibility
35 requirements of Section 65915, including, but not limited to,
36 affordability requirements, shall be eligible for two additional
37 concessions pursuant to Section 65915.

38 (4) For a residential development within one-half mile of a Tier
39 2 transit-oriented development stop, all of the following apply:

1 (A) A development may be built up to 55 feet high, or up to the
2 local height limit, whichever is greater.

3 (B) A local government shall not impose any maximum density
4 standard of less than 80 dwelling units per acre. The development
5 proponent may seek a further increased density in accordance
6 with applicable density bonus law.

7 (C) A local government shall not enforce any other local
8 development standard or combination of standards that would
9 prevent achieving a floor area ratio of up to 2.5.

10 (D) A development that otherwise meets the eligibility
11 requirements of Section 65915, including, but not limited to,
12 affordability requirements, shall be eligible for one additional
13 concession pursuant to Section 65915.

14 (5) For a residential development within one-quarter mile of a
15 Tier 3 transit-oriented development stop, all of the following apply:

16 (A) A development may be built up to 55 feet high, or up to the
17 local height limit, whichever is greater.

18 (B) A local government shall not impose any maximum density
19 standard of less than 80 dwelling units per acre. The development
20 proponent may seek a further increased density in accordance
21 with applicable density bonus law.

22 (C) A local government shall not enforce any other local
23 development standard or combination of standards that would
24 prevent achieving a floor area ratio of up to 2.5.

25 (D) A development that otherwise meets the eligibility
26 requirements of Section 65915, including, but not limited to,
27 affordability requirements, shall be eligible for one additional
28 concession pursuant to Section 65915.

29 (6) For a residential development within one-half mile of a Tier
30 3 transit-oriented development stop, all of the following apply:

31 (A) A development may be built up to 45 feet high, or up to the
32 local height limit, whichever is greater.

33 (B) A local government shall not impose any maximum density
34 standard of less than 60 dwelling units per acre. The development
35 proponent may seek a further increased density in accordance
36 with applicable density bonus law.

37 (C) A local government shall not enforce any other local
38 development standard or combination of standards that would
39 prevent achieving a floor area ratio of up to 2.

1 (b) Notwithstanding any other law, a parcel that meets any of
2 the eligibility criteria under subdivision (a) and is immediately
3 adjacent to a Tier 1, Tier 2, or Tier 3 transit-oriented development
4 stop shall be eligible for an adjacency intensifier to increase the
5 height limit by an additional 20 feet, the maximum density standard
6 by an additional 40 dwelling units per acre, and the floor area
7 ratio by 1.

8 (c) A development proposed pursuant to this section shall
9 comply with the antidisplacement requirements of Section 66300.6.
10 This subdivision shall apply to any city or county.

11 (d) A local government that denies a project meeting of the
12 requirements of this section that is located in a high-resource area
13 shall be presumed to be in violation of the Housing Accountability
14 Act (Section 65589.5) and liable for penalties pursuant to
15 subparagraph (B) of paragraph (1) of subdivision (k) of Section
16 65589.5, unless the local government demonstrates substantial
17 evidence that it has a health, life, or safety reason for denying the
18 project.

19 65912.158. Notwithstanding any other provision of this chapter,
20 a transit agency may adopt objective standards for both residential
21 and commercial developments proposed to be constructed on land
22 owned by the transit agency or on which the transit agency has a
23 permanent operating easement, if the objective standards allow
24 for the same or greater development intensity as that allowed by
25 local standards or applicable state law.

26 65912.159. A development project proposed pursuant to Section
27 65912.157 shall be eligible for streamlined ministerial approval
28 pursuant to Section 65913.4 in accordance with both of the
29 following:

30 (a) The proposed project shall be exempt from subparagraph
31 (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of
32 subparagraph (A) of paragraph (6) of, subdivision (a) of Section
33 65913.4.

34 (b) The project shall comply with all other requirements of
35 Section 65913.4, including, but not limited to, the prohibition
36 against a site that is within a very high fire hazard severity zone,
37 pursuant to subparagraph (D) of paragraph (6) of subdivision (a)
38 of Section 65913.4.

39 65912.160. (a) The department shall oversee compliance with
40 this chapter, including, but not limited to, promulgating standards

1 *on how to account for capacity pursuant to this chapter in a city*
2 *or county's inventory of land suitable for residential development,*
3 *pursuant to Section 65583.2.*

4 *(b) (1) A local government may adopt an ordinance to*
5 *implement the provisions of this chapter, which may include*
6 *revisions to applicable zoning requirements on individual sites*
7 *within a transit-oriented development zone, provided that those*
8 *revisions maintain the average density allowed for the applicable*
9 *tier, or up to a 100-percent increase, subject to review by the*
10 *department pursuant to paragraph (3).*

11 *(2) An ordinance adopted to implement this section shall not*
12 *be considered a project under Division 13 (commencing with*
13 *Section 21000) of the Public Resources Code.*

14 *(3) (A) A local government shall submit a copy of any ordinance*
15 *adopted pursuant to this section to the department within 60 days*
16 *of adoption.*

17 *(B) Upon receipt of an ordinance pursuant to this paragraph,*
18 *the department shall review that ordinance and determine whether*
19 *it complies with this section. If the department determines that the*
20 *ordinance does not comply with this section, the department shall*
21 *notify the local government in writing and provide the local*
22 *government a reasonable time, not to exceed 30 days, to respond*
23 *before taking further action as authorized by this section.*

24 *(C) The local government shall consider any findings made by*
25 *the department pursuant to subparagraph (B) and shall do one of*
26 *the following:*

27 *(i) Amend the ordinance to comply with this section.*

28 *(ii) Adopt the ordinance without changes. The local government*
29 *shall include findings in its resolution adopting the ordinance that*
30 *explain the reasons the local government believes that the*
31 *ordinance complies with this section despite the findings of the*
32 *department.*

33 *(D) If the local government does not amend its ordinance in*
34 *response to the department's findings or does not adopt a*
35 *resolution with findings explaining the reason the ordinance*
36 *complies with this chapter and addressing the department's*
37 *findings, the department shall notify the local government and may*
38 *notify the Attorney General that the local government is in violation*
39 *of this section.*

1 65912.161. *The Legislature finds and declares that the state*
2 *faces a housing crisis of availability and affordability, in large*
3 *part due to a severe shortage of housing, and solving the housing*
4 *crisis therefore requires a multifaceted, statewide approach,*
5 *including, but not limited to, encouraging an increase in the overall*
6 *supply of housing, encouraging the development of housing that*
7 *is affordable to households at all income levels, removing barriers*
8 *to housing production, expanding homeownership opportunities,*
9 *and expanding the availability of rental housing, and is a matter*
10 *of statewide concern and is not a municipal affair as that term is*
11 *used in Section 5 of Article XI of the California Constitution.*
12 *Therefore, this chapter applies to all cities, including charter cities.*

13 SEC. 3. *Section 21080.26.5 is added to the Public Resources*
14 *Code, to read:*

15 21080.26.5. (a) *For the purposes of this section, “public*
16 *project” means a project constructed by either a public agency or*
17 *private entity, that, upon the completion of the construction, will*
18 *be operated by a public agency.*

19 (b) *This division shall not apply to a public or private*
20 *residential, commercial, or mixed-used project that, at the time*
21 *the project application is filed, is located entirely or principally*
22 *on land owned by a public transit agency, or fully or partially*
23 *encumbered by an existing operating easement in favor of a public*
24 *transit agency, and that includes at least one of the following:*

25 (1) *A project component identified in paragraphs (1) to (5),*
26 *inclusive, or paragraph (7) of subdivision (b) of Section 21080.25.*

27 (2) *A public project for passenger rail service facilities, other*
28 *than light rail service eligible under paragraph (5) of subdivision*
29 *(b) of Section 21080.25, including the construction,*
30 *reconfiguration, or rehabilitation of stations, terminals, rails,*
31 *platforms, or existing operations facilities, which will be exclusively*
32 *used by zero-emission or electric trains. The project shall be*
33 *located on land owned by a public transit agency, or land fully or*
34 *partially encumbered by an existing operating easement in favor*
35 *of a public transit agency, at the time the project application is*
36 *filed.*

37 (3) *An agreement between the project applicant and public*
38 *transit agency that owns the land or has the permanent operating*
39 *easement to finance transit capital infrastructure, transit*
40 *maintenance, or transit operations, including through a proposed*

1 public financing district, community financing district, or tax
2 increment generated by the project.

3 (c) If a project described in subdivision (b) requires the
4 construction of new passenger rail storage and maintenance
5 facilities at a publicly or privately owned offsite location distinct
6 from the principal project site, then that project shall be considered
7 a wholly separate project from the project described in subdivision
8 (b) and shall not be exempt from this division. Any required
9 environmental review shall not affect or render invalid the
10 exemption provided in subdivision (b), regardless of whether the
11 project described in subdivision (b) cannot proceed unless the
12 offsite facilities are constructed.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 a local government or school district has the authority to levy
16 service charges, fees, or assessments sufficient to pay for the
17 program or level of service mandated by this act, within the
18 meaning of Section 17556 of the Government Code.

19 SECTION 1. ~~(a) It is the intent of the Legislature to enact
20 legislation that makes housing more affordable for California
21 families, reduces greenhouse gas emissions, and enhances public
22 transit systems.~~

23 ~~(b) Specifically, it is the intent of the Legislature that the
24 legislation described in subdivision (a) do all of the following:~~

25 ~~(1) Require the upzoning of land near rail stations and rapid bus
26 lines to encourage transit-oriented development.~~

27 ~~(2) Ensure that the degree of upzoning is proportional to the
28 capacity of the adjacent transit network and the distance to transit
29 stations, thereby maximizing the use of public transit infrastructure.~~

30 ~~(3) Integrate upzoning provisions into local jurisdictions'
31 housing elements to align with statewide housing goals and
32 promote compliance with the regional housing need allocation
33 process.~~

34 ~~(4) Support transit agencies in increasing and diversifying their
35 revenue sources beyond existing public subsidies and fare revenue
36 either in this bill or in subsequent legislation, ensuring sustainable
37 funding for operational and capital improvements necessary to
38 meet increased demand resulting from upzoning initiatives.~~

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

1 ~~(1) California faces a housing shortage both acute and chronic,~~
2 ~~particularly in areas with access to robust public transit~~
3 ~~infrastructure.~~

4 ~~(2) Building more homes near transit access reduces housing~~
5 ~~and transportation costs for California families, and promotes~~
6 ~~environmental sustainability, economic growth, and reduced traffic~~
7 ~~congestion.~~

8 ~~(3) Public transit systems require sustainable funding to provide~~
9 ~~reliable service, especially in areas experiencing increased density~~
10 ~~and ridership. The state does not invest in public transit service to~~
11 ~~the same degree as it does in roads, and the state funds a smaller~~
12 ~~proportion of the state's major transit agencies' operations costs~~
13 ~~than other states with comparable systems.~~

14 ~~(b) Therefore, it is the intent of the Legislature to address these~~
15 ~~challenges by enacting legislation to do the following:~~

16 ~~(1) Establishing a framework for transit-based upzoning that is~~
17 ~~sensitive to the capacity of existing and planned transit~~
18 ~~infrastructure.~~

19 ~~(2) Supporting local jurisdictions in integrating these upzoning~~
20 ~~requirements into their housing elements as part of their general~~
21 ~~plans.~~

22 ~~(3) Allowing local jurisdictions to be exempt from the upzoning~~
23 ~~provisions if they adopt higher intensity or more permissive zoning~~
24 ~~standards than those set by state law.~~

25 ~~(4) Ensuring that all eligible parcels may also benefit from the~~
26 ~~streamlining provisions under Section 65913.4 of the Government~~
27 ~~Code, provided they meet the labor, environmental, and other~~
28 ~~relevant standards outlined in the statute.~~

29 ~~(5) Granting transit agencies the authority to set residential and~~
30 ~~commercial zoning standards on properties they own or have a~~
31 ~~permanent operating easement on, provided that the residential~~
32 ~~and commercial zoning standards are higher intensity and more~~
33 ~~permissive than the zoning standards set by the local government.~~

34 ~~SEC. 3. In enacting the legislation described in Section 1, it is~~
35 ~~further the intent of the Legislature to do the following:~~

36 ~~(a) Consult with local governments, regional planning agencies,~~
37 ~~transit operators, housing advocates, environmental groups, and~~
38 ~~other stakeholders to develop effective and equitable upzoning~~
39 ~~criteria.~~

- 1 ~~(b) Require local jurisdictions to adopt and implement these~~
- 2 ~~transit-based upzoning policies in a timely and effective manner.~~
- 3 ~~(c) Monitor and evaluate the outcomes of transit-based upzoning~~
- 4 ~~policies to ensure alignment with the state's housing,~~
- 5 ~~environmental, and transportation goals.~~



March 26, 2025

The Honorable Scott Wiener
Senator, California State Senate
1021 O St, Suite 8620
Sacramento, CA 95814

**RE: SB 79 (Wiener) Transit-oriented Development
Notice of Opposition**

Dear Senator Scott Wiener,

The League of California Cities writes to express our strong opposition to your SB 79 (Wiener), which would disregard state-certified housing elements and bestow land use authority to transit agencies without any requirement that developers build housing, let alone affordable housing.

SB 79 doubles down on the recent trend of the state overriding its own mandated local housing elements. This latest overreaching effort forces cities to approve transit-oriented development projects near specified transit stops — up to seven stories high and a density of 120 homes per acre — without regard to the community's needs, environmental review, or public input.

Most alarmingly, SB 79 defies cities' general plans and provides transit agencies unlimited land use authority on property they own or have a permanent easement, regardless of the distance from a transit stop. Transit agencies would have the power to determine all aspects of the development including height, density, and design, without any regard to local zoning or planning.

This broad new authority applies to both residential and commercial development. Transit agencies could develop 100% commercial projects — even at transit stops — and not provide a single new home, while simultaneously making the argument that more housing must be constructed around transit stops.

Cal Cities appreciates and respects your desire to pursue a housing production proposal. However, as currently drafted, SB 79 will not spur much-needed housing construction in a manner that supports local flexibility, decision-making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements.

California will never produce the number of homes needed with an increasingly state-driven, by-right housing approval process. What we really need is a sustainable state investment that matches the scale of this decades-in-the-making crisis. For these reasons, Cal Cities opposes SB 79. Please do not hesitate to contact me to discuss this in greater detail at (916) 658-8264.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Rhine".

Jason Rhine, Senior Director, Legislative Affairs