

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**SB-50 Planning and zoning: housing development: incentives.** (2019-2020)**SECTION 1.** *Section 65589.5 of the Government Code is amended to read:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing

opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

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

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

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

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

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

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

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

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record. For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the housing

development project's application is determined to be complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

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

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

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

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

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

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

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 *or an equitable communities incentive pursuant to Section 65918.51* shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in ~~conformity~~, *conformity* with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

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

(5) For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(k) (1) (A) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that either (i) the local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence, or (ii) the local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its

order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. For purposes of this section, "lower density" includes conditions that have the same effect or impact on the ability of the project to provide housing.

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

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

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

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

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

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the

judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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

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

**SEC. 2.** *Chapter 4.35 (commencing with Section 65918.50) is added to Division 1 of Title 7 of the Government Code, to read:*

**CHAPTER 4.35. Equitable Communities Incentives**

**65918.50.** *For purposes of this chapter:*

(a) *"Development proponent" means an applicant who submits an application for an equitable communities incentive pursuant to this chapter.*

(b) *"Eligible applicant" means a development proponent who receives an equitable communities incentive.*

(c) *"FAR" means floor area ratio.*

(d) *"High-quality bus corridor" means a corridor with fixed route bus service that meets all of the following criteria:*

(1) *It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.*

(2) *It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday.*

(3) *It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.*

(e) (1) *"Jobs-rich area" means an area identified by the Department of Housing and Community Development in consultation with the Office of Planning and Research that is both high opportunity and jobs rich, based on whether, in a regional analysis, the tract meets the following:*

(A) *The tract is higher opportunity and its characteristics are associated with positive educational and economic outcomes for households of all income levels residing in the tract.*

(B) *The tract meets either of the following criteria:*

(i) *New housing sited in the tract would enable residents to live in or near a jobs-rich area, as measured by employment density and job totals.*

(ii) *New housing sited in the tract would enable shorter commute distances for residents, compared to existing commute levels.*

(2) *The Department of Housing and Community Development shall, commencing on January 1, 2020, publish and update, every five years thereafter, a map of the state showing the areas identified by the department as "jobs-rich areas."*

(f) *"Job-rich housing project" means a residential development within an area identified as a jobs-rich area by the Department of Housing and Community Development in consultation with the Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs. A residential development shall be deemed to be within an area designated as job-rich if both of the following apply:*

(1) *All parcels within the project have no more than 25 percent of their area outside of the job-rich area.*

(2) *No more than 10 percent of residential units or 100 units, whichever is less, of the development are outside of the job-rich area.*

(g) "Local government" means a city, including a charter city, a county, or a city and county.

(h) "Major transit stop" means a rail transit station or a ferry terminal that is a major transit stop pursuant to subdivision (b) of Section 21155 of the Public Resources Code.

(i) "Residential development" means a project with at least two-thirds of the square footage of the development designated for residential use.

(j) "Sensitive community" means either of the following:

(1) Except as provided in paragraph (2), an area identified by the Department of Housing and Community Development, which identification shall be updated every five years, in consultation with local community-based organizations in each metropolitan planning region, as an area where both of the following apply:

(A) Thirty percent or more of the census tract lives below the poverty line, provided that college students do not compose at least 25 percent of the population.

(B) The location quotient of residential racial segregation in the census tract is at least 1.25 as defined by the Department of Housing and Community Development.

(2) In the Counties of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma, areas designated by the Metropolitan Transportation Commission on December 19, 2018, as the intersection of disadvantaged and vulnerable communities as defined by the Metropolitan Transportation Commission and the San Francisco Bay Conservation and Development Commission, which identification of a sensitive community shall be updated at least every five years by the Department of Housing and Community Development.

(k) "Tenant" means a person who does not own the property where they reside, including residential situations that are any of the following:

(1) Residential real property rented by the person under a long-term lease.

(2) A single-room occupancy unit.

(3) An accessory dwelling unit that is not subject to, or does not have a valid permit in accordance with, an ordinance adopted by a local agency pursuant to Section 65852.22.

(4) A residential motel.

(5) A mobilehome park, as 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).

(6) Any other type of residential property that is not owned by the person or a member of the person's household, for which the person or a member of the person's household provides payments on a regular schedule in exchange for the right to occupy the residential property.

(l) "Transit-rich housing project" means a residential development the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor. A project shall be deemed to be within the radius if both of the following apply:

(1) All parcels within the project have no more than 25 percent of their area outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

(2) No more than 10 percent of the residential units or 100 units, whichever is less, of the project are outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

**65918.51.** A local government shall, upon request of a development proponent, grant an equitable communities incentive, as specified in Section 65918.53, when the development proponent seeks and agrees to construct a residential development that satisfies the requirements specified in Section 65918.52.

**65918.52.** In order to be eligible for an equitable communities incentive pursuant to this chapter, a residential development shall meet all of the following criteria:

(a) The residential development is either a job-rich housing project or transit-rich housing project.



(b) The residential development is located on a site that, at the time of application, is zoned to allow housing as an underlying use in the zone, including, but not limited to, a residential, mixed-use, or commercial zone, as defined and allowed by the local government.

(c) (1) If the local government has adopted an inclusionary housing ordinance requiring that the development include a certain number of units affordable to households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code, and that ordinance requires that a new development include levels of affordable housing in excess of the requirements specified in paragraph (2), the residential development complies with that ordinance. The ordinance may provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, offsite construction, or acquisition and rehabilitation of existing units.

(2) (A) If the local government has not adopted an inclusionary housing ordinance, as described in paragraph (1), the residential development includes an affordable housing contribution for households with incomes that do not exceed the limits for extremely low income, very low income, and low income specified in Sections 50093, 50105, and 50106 of the Health and Safety Code.

(B) For purposes of this paragraph, the residential development is subject to one of the following:

(i) If the project has 10 or fewer units, no affordability contribution is imposed.

(ii) If the project has 11 to 20 residential units, the development proponent may pay an in-lieu fee to the local government for affordable housing, where feasible, pursuant to subparagraph (C).

(iii) If the project has more than 20 residential units, the development proponent shall do either of the following:

(I) Make a comparable affordability contribution toward housing offsite that is affordable to lower income households, pursuant to subparagraph (C).

(II) Include units on the site of the project that are affordable to extremely low income, as defined in Section 50105 of the Health and Safety Code, very low income, or low-income households, as defined in Section 50079.5 of the Health and Safety Code, as follows:

Project Size	Inclusionary Requirement
21– 200 units	15% low income; or 8% very low income; or 6% extremely low income
201–350 units	17% low income; or 10% very low income; or 8% extremely low income
351 or more units	25% low income; or 15% very low income; or 11% extremely low income

(C) The development proponent of a project that qualifies pursuant to clause (ii) or subclause (I) of clause (iii) of subparagraph (B) may make a comparable affordability contribution toward housing offsite that is affordable to lower income households, as follows:

(i) The local government collecting the in-lieu fee payment shall make every effort to ensure that future affordable housing will be sited within one-half mile of the original project location within the boundaries of the local government by designating an existing housing opportunity site within a one-half mile radius of the project site for affordable housing. To the extent practicable, local housing funding shall be prioritized at the first opportunity to build affordable housing on that site.

(ii) If no housing opportunity sites that satisfy clause (i) are available, the local government shall designate a site for affordable housing within the boundaries of the local government and make findings that the site for the affordable housing development affirmatively furthers fair housing, as defined in Section 8899.50.

(D) Affordability of units pursuant to this paragraph shall be restricted by deed for a period of 55 years for rental units or 45 years for units offered for sale.

(d) The site does not contain, or has not contained, either of the following:

(1) Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the application for a development permit.

(2) A parcel or parcels on which an owner of residential real property has exercised their rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years prior to the date that the development proponent submits an application pursuant to this chapter.

(e) The residential development complies with all applicable labor, construction employment, and wage standards otherwise required by law and any other generally applicable requirement regarding the approval of a development project, including, but not limited to, the local government's conditional use or other discretionary permit approval process, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or a streamlined approval process that includes labor protections.

(f) The residential development complies with all other relevant standards, requirements, and prohibitions imposed by the local government regarding architectural design, restrictions on or oversight of demolition, impact fees, and community benefits agreements.

(g) The equitable communities incentive shall not be used to undermine the economic feasibility of delivering low-income housing under the state density bonus program or a local implementation of the state density bonus program, or any locally adopted program that puts conditions on new development applications on the basis of receiving a zone change or general plan amendment in exchange for benefits such as increased affordable housing, local hire, or payment of prevailing wages.

**65918.53.** (a) Any transit-rich or jobs-rich housing project that meets the criteria specified in Section 65918.52 shall receive, upon request, an equitable communities incentive as follows:

(1) A waiver from maximum controls on density.

(2) A waiver from minimum automobile parking requirements greater than 0.5 automobile parking spots per unit.

(3) Up to three incentives and concessions pursuant to subdivision (d) of Section 65915.

(b) An eligible applicant proposing a residential development that is located within a one-half mile radius, but outside a one-quarter mile radius, of a major transit stop shall receive, in addition to the incentives specified in subdivision (a), waivers from all of the following:

(1) Maximum height requirements less than 45 feet.

(2) Maximum FAR requirements less than 2.5.

(3) Notwithstanding subparagraph (B) of paragraph (1), any maximum automobile parking requirement.

(c) An eligible applicant proposing a residential development that is located within a one-quarter mile radius of a major transit stop shall receive, in addition to the incentives specified in subdivision (a), waivers from all of the following:

(1) Maximum height requirements less than 55 feet.

(2) Maximum FAR requirements less than 3.25.

(3) Notwithstanding paragraph (1) of subdivision (b), any minimum automobile parking requirement.

(d) Notwithstanding any other law, for purposes of calculating any additional incentive or concession in accordance with Section 65915, the number of units in the residential development after applying the equitable communities incentive received pursuant to this chapter shall be used as the base density for calculating the incentive or concession under that section.

(e) An eligible applicant proposing a project that meets all of the requirements under Section 65913.4 may submit an application for streamlined, ministerial approval in accordance with that section.

(f) The local government may modify or expand the terms of an equitable communities incentive provided pursuant to this chapter, provided that the equitable communities incentive is consistent with, and meets the minimum standards specified in, this chapter.

**65918.54.** The Legislature finds and declares that this chapter addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

**65918.55.** (a) *Implementation of this chapter shall be delayed in sensitive communities until July 1, 2020.*

(b) *Between January 1, 2020, and \_\_\_\_\_, a local government, in lieu of the requirements of this chapter, may opt for a community-led planning process in sensitive communities aimed toward increasing residential density and multifamily housing choices near transit stops, as follows:*

(1) *Sensitive communities that pursue a community-led planning process at the neighborhood level shall, on or before January 1, 2025, produce a community plan that may include zoning and any other policies that encourage multifamily housing development at a range of income levels to meet unmet needs, protect vulnerable residents from displacement, and address other locally identified priorities.*

(2) *Community plans shall, at a minimum, be consistent with the overall residential development capacity and the minimum affordability standards set forth in this chapter within the boundaries of the community plan.*

(3) *The provisions of this chapter shall apply on January 1, 2025, to sensitive communities that have not adopted community plans that meet the minimum standards described in paragraph (2), whether those plans were adopted prior to or after enactment of this chapter.*

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