

AMENDED IN ASSEMBLY MARCH 4, 2026

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1621

Introduced by Assembly Member Wilson
(~~Coauthor:~~ (Coauthors: Assembly Member Members Blanca Rubio
and Wicks))

January 22, 2026

An act to amend Sections 65589.5 and 65913.3 of the Government Code, relating to planning and zoning.

LEGISLATIVE COUNSEL’S DIGEST

AB 1621, as amended, Wilson. Planning and Zoning Law: postentitlement phase permits: Housing Accountability Act.

(1) The Planning and Zoning Law requires a local agency or state agency to compile one or more lists that specify in detail the information required from any applicant for a postentitlement phase permit, as defined. Existing law also establishes time limits for completing reviews regarding whether an application for a postentitlement phase permit is complete and compliant, and whether to approve or deny an application. Existing law requires the time limits to be tolled, if the local agency or state agency requires review of the application by an outside entity, until the outside entity completes the review and returns the application, as specified.

This bill would prohibit a local agency or state agency from requiring or requesting more than 2 plan check and specification reviews in connection with an application for a building permit, as part of its review, except as specified. The bill would authorize a local agency or state agency to deny an application that is not compliant with the permit standards following 2 plan check and specification reviews. The bill

would also authorize an applicant to request additional submittals of applications that are not compliant with the permit standards. The bill, if a local agency or state agency finds that a complete application is noncompliant, would prohibit a local agency or state agency from requesting or requiring any action or inaction as a result of a building inspection undertaken to assess compliance with the applicable building permit standards that would represent a deviation from a previously approved building plan or similar approval for the building permit, except as specified.

This bill would remove the above-described tolling requirements relating to outside entity reviews and, instead, would require, if federal or state law requires review of the application by another public agency that is independent of the local agency or state agency before the local agency or state agency is authorized to act on the application, the time limits to be tolled for the application until the public agency completes the review and returns the application to the local agency or state agency. The bill would require the local agency or state agency to notify the applicant of the tolling, as specified.

(2) Existing law, if a postentitlement phase permit is determined to be incomplete or noncompliant, requires a local agency or state agency to provide a process for an applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. Existing law requires the city or county to provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

Existing law requires a local agency or state agency to provide a final written determination on the appeal not later than 60 business days after receipt of the applicant's written appeal, for housing development projects with 25 units or fewer, and not later than 90 business days for a housing development projects with 26 units or more. Existing law also specifies that the fact that an appeal is permitted to both the planning commission and to the governing body does not extend the specified time period.

This bill would revise those timelines to not later than 30 business days for housing development projects with 25 units or fewer and 45 business days for housing development projects with 26 units or more. The bill would remove the specification that the fact that an appeal is permitted to both the planning commission and to the governing body does not extend the specified time period. The bill would remove the requirement that, if a postentitlement phase permit is determined to be

incomplete or noncompliant, a local agency or state agency provide a process for an applicant to appeal that decision to the director of the agency if there is no governing body, as provided by that agency. The bill would remove the requirement that a city or county provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

This bill would authorize the applicant to seek a writ of mandate to compel approval of the application, if the applicant's appeal is denied, or a decision on the appeal is not made within the timelines provided, or an appeals process is not provided as required.

By imposing additional duties on local agencies regarding postentitlement phase permits, the bill would impose a state-mandated local program.

(3) Existing law, the Housing Accountability Act, among other things, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households unless the local agency makes written findings as to one of certain sets of conditions, as specified. The act also requires, when a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, that the local agency base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that 2 specified conditions exist. Existing law defines the term "disapprove the housing development project" for these purposes to include any instance in which a local agency takes certain actions or fails to comply with certain requirements, including the time limits described above. Existing law makes a local agency's failure to meet the above-described time limits relating to postentitlement phase permits a violation of the Housing Accountability Act.

This bill would, instead, make a violation of the above-described provisions relating to postentitlement phase permits, among others, a violation of the Housing Accountability Act. The bill would also revise the definition of "disapprove the housing development project" under the Housing Accountability Act to include any instance in which a local agency fails to comply with any of the provisions described above relating to postentitlement phase permits. By requiring local agencies

to take certain actions, this bill would impose a state-mandated local program.

(4) The bill would make other conforming changes and would provide that certain changes are declaratory of existing law.

(5) 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.

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

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

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

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

1 SECTION 1. Section 65589.5 of the Government Code is
2 amended to read:

3 65589.5. (a) (1) The Legislature finds and declares all of the
4 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) It is the intent of the Legislature that the amendments
28 removing provisions from subparagraphs (D) and (E) of paragraph
29 (6) of subdivision (h) and adding those provisions to Sections
30 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
31 as they are substantially the same as existing law, shall be
32 considered restatements and continuations of existing law, and not
33 new enactments.

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

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

9 (d) For a housing development project for very low, low-, or
10 moderate-income households, or an emergency shelter, a local
11 agency shall not disapprove the housing development project or
12 emergency shelter, or condition approval in a manner that renders
13 the housing development project or emergency shelter infeasible,
14 including through the use of design review standards, unless it
15 makes written findings, based upon a preponderance of the
16 evidence in the record, as to one of the following:

17 (1) The jurisdiction has adopted a housing element pursuant to
18 this article that has been revised in accordance with Section 65588,
19 is in substantial compliance with this article, and the jurisdiction
20 has met or exceeded its share of the regional housing need
21 allocation pursuant to Section 65584 for the planning period for
22 the income category proposed for the housing development project,
23 provided that any disapproval or conditional approval shall not be
24 based on any of the reasons prohibited by Section 65008. If the
25 housing development project includes a mix of income categories,
26 and the jurisdiction has not met or exceeded its share of the regional
27 housing need for one or more of those categories, then this
28 paragraph shall not be used to disapprove or conditionally approve
29 the housing development project. The share of the regional housing
30 need met by the jurisdiction shall be calculated consistently with
31 the forms and definitions that may be adopted by the Department
32 of Housing and Community Development pursuant to Section
33 65400. In the case of an emergency shelter, the jurisdiction shall
34 have met or exceeded the need for emergency shelter, as identified
35 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
36 disapproval or conditional approval pursuant to this paragraph
37 shall be in accordance with applicable law, rule, or standards.

38 (2) The housing development project or emergency shelter as
39 proposed would have a specific, adverse impact upon the public
40 health or safety, and there is no feasible method to satisfactorily

1 mitigate or avoid the specific, adverse impact without rendering
2 the development unaffordable to low- and moderate-income
3 households or rendering the development of the emergency shelter
4 financially infeasible. As used in this paragraph, a “specific,
5 adverse impact” means a significant, quantifiable, direct, and
6 unavoidable impact, based on objective, identified written public
7 health or safety standards, policies, or conditions as they existed
8 on the date the application was deemed complete. The following
9 shall not constitute a specific, adverse impact upon the public
10 health or safety:

11 (A) Inconsistency with the zoning ordinance or general plan
12 land use designation.

13 (B) The eligibility to claim a welfare exemption under
14 subdivision (g) of Section 214 of the Revenue and Taxation Code.

15 (3) The denial of the housing development project or imposition
16 of conditions is required in order to comply with specific state or
17 federal law, and there is no feasible method to comply without
18 rendering the development unaffordable to low- and
19 moderate-income households or rendering the development of the
20 emergency shelter financially infeasible.

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

26 (5) On the date an application for the housing development
27 project or emergency shelter was deemed complete, the jurisdiction
28 had adopted a revised housing element that was in substantial
29 compliance with this article, and the housing development project
30 or emergency shelter was inconsistent with both the jurisdiction’s
31 zoning ordinance and general plan land use designation as specified
32 in any element of the general plan.

33 (A) This paragraph shall not be utilized to disapprove or
34 conditionally approve a housing development project proposed on
35 a site, including a candidate site for rezoning, that is identified as
36 suitable or available for very low, low-, or moderate-income
37 households in the jurisdiction’s housing element if the housing
38 development project is consistent with the density specified in the
39 housing element, even though the housing development project
40 was inconsistent with both the jurisdiction’s zoning ordinance and

1 general plan land use designation on the date the application was
2 deemed complete.

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

18 (6) On the date an application for the housing development
19 project or emergency shelter was deemed complete, the jurisdiction
20 did not have an adopted revised housing element that was in
21 substantial compliance with this article and the housing
22 development project is not a builder's remedy project.

23 (e) Nothing in this section shall be construed to relieve the local
24 agency from complying with the congestion management program
25 required by Chapter 2.6 (commencing with Section 65088) or the
26 California Coastal Act of 1976 (Division 20 (commencing with
27 Section 30000) of the Public Resources Code). Neither shall
28 anything in this section be construed to relieve the local agency
29 from making one or more of the findings required pursuant to
30 Section 21081 of the Public Resources Code or otherwise
31 complying with the California Environmental Quality Act (Division
32 13 (commencing with Section 21000) of the Public Resources
33 Code).

34 (f) (1) Except as provided in paragraphs (6) and (8), and
35 subdivision (o), nothing in this section shall be construed to
36 prohibit a local agency from requiring the housing development
37 project to comply with objective, quantifiable, written development
38 standards, conditions, and policies appropriate to, and consistent
39 with, meeting the jurisdiction's share of the regional housing need
40 pursuant to Section 65584. However, the development standards,

1 conditions, and policies shall be applied to facilitate and
2 accommodate development at the density permitted on the site and
3 proposed by the development. Nothing in this section shall limit
4 a project's eligibility for a density bonus, incentive, or concession,
5 or waiver or reduction of development standards and parking ratios,
6 pursuant to Section 65915.

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

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

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

30 (5) For purposes of this section, a change to the zoning ordinance
31 or general plan land use designation subsequent to the date the
32 application was deemed complete shall not constitute a valid basis
33 to disapprove or condition approval of the housing development
34 project or emergency shelter.

35 (6) Notwithstanding paragraphs (1) to (5), inclusive, all of the
36 following apply to a housing development project that is a builder's
37 remedy project:

38 (A) A local agency may only require the project to comply with
39 the objective, quantifiable, written development standards,
40 conditions, and policies that would have applied to the project had

1 it been proposed on a site with a general plan designation and
2 zoning classification that allow the density and unit type proposed
3 by the applicant. If the local agency has no general plan designation
4 or zoning classification that would have allowed the density and
5 unit type proposed by the applicant, the development proponent
6 may identify any objective, quantifiable, written development
7 standards, conditions, and policies associated with a different
8 general plan designation or zoning classification within that
9 jurisdiction, that facilitate the project's density and unit type, and
10 those shall apply.

11 (B) (i) Except as authorized by paragraphs (1) to (4), inclusive,
12 of subdivision (d), a local agency shall not apply any individual
13 or combination of objective, quantifiable, written development
14 standards, conditions, and policies to the project that do any of the
15 following:

16 (I) Render the project infeasible.

17 (II) Preclude a project that meets the requirements allowed to
18 be imposed by subparagraph (A), as modified by any density bonus,
19 incentive, or concession, or waiver or reduction of development
20 standards and parking ratios, pursuant to Section 65915, from
21 being constructed as proposed by the applicant.

22 (ii) The local agency shall bear the burden of proof of complying
23 with clause (i).

24 (C) (i) A project applicant that qualifies for a density bonus
25 pursuant to Section 65915 shall receive two incentives or
26 concessions in addition to those granted pursuant to paragraph (2)
27 of subdivision (d) of Section 65915.

28 (ii) For a project seeking density bonuses, incentives,
29 concessions, or any other benefits pursuant to Section 65915, and
30 notwithstanding paragraph (6) of subdivision (o) of Section 65915,
31 for purposes of this paragraph, maximum allowable residential
32 density or base density means the density permitted for a builder's
33 remedy project pursuant to subparagraph (C) of paragraph (11) of
34 subdivision (h).

35 (iii) A local agency shall grant any density bonus pursuant to
36 Section 65915 based on the number of units proposed and
37 allowable pursuant to subparagraph (C) of paragraph (11) of
38 subdivision (h).

39 (iv) A project that dedicates units to extremely low income
40 households pursuant to subclause (I) of clause (i) of subparagraph

1 (C) of paragraph (3) of subdivision (h) shall be eligible for the
2 same density bonus, incentives or concessions, and waivers or
3 reductions of development standards as provided to a housing
4 development project that dedicates three percentage points more
5 units to very low income households pursuant to paragraph (2) of
6 subdivision (f) of Section 65915.

7 (v) All units dedicated to extremely low income, very low
8 income, low-income, and moderate-income households pursuant
9 to paragraph (11) of subdivision (h) shall be counted as affordable
10 units in determining whether the applicant qualifies for a density
11 bonus pursuant to Section 65915.

12 (D) (i) The project shall not be required to apply for, or receive
13 approval of, a general plan amendment, specific plan amendment,
14 rezoning, or other legislative approval.

15 (ii) The project shall not be required to apply for, or receive,
16 any approval or permit not generally required of a project of the
17 same type and density proposed by the applicant.

18 (iii) Any project that complies with this paragraph shall be
19 deemed consistent, compliant, and in conformity with an applicable
20 plan, program, policy, ordinance, standard, requirement,
21 redevelopment plan and implementing instruments, or other similar
22 provision for all purposes, and shall not be considered or treated
23 as a nonconforming lot, use, or structure for any purpose.

24 (E) A local agency shall not adopt or impose any requirement,
25 process, practice, or procedure or undertake any course of conduct,
26 including, but not limited to, increased fees or inclusionary housing
27 requirements, that applies to a project solely or partially on the
28 basis that the project is a builder's remedy project.

29 (F) (i) A builder's remedy project shall be deemed to be in
30 compliance with the residential density standards for the purposes
31 of complying with subdivision (b) of Section 65912.123.

32 (ii) A builder's remedy project shall be deemed to be in
33 compliance with the objective zoning standards, objective
34 subdivision standards, and objective design review standards for
35 the purposes of complying with paragraph (5) of subdivision (a)
36 of Section 65913.4.

37 (G) (i) (I) If the local agency had a local affordable housing
38 requirement, as defined in Section 65912.101, that on January 1,
39 2024, required a greater percentage of affordable units than
40 required under subparagraph (A) of paragraph (11) of subdivision

(h), or required an affordability level deeper than what is required under subparagraph (A) of paragraph (11) of subdivision (h), then, except as provided in subclauses (II) and (III), the local agency may require a housing development for mixed-income households to comply with an otherwise lawfully applicable local affordability percentage or affordability level. The local agency shall not require housing for mixed-income households to comply with any other aspect of the local affordable housing requirement.

(II) Notwithstanding subclause (I), the local affordable housing requirements shall not be applied to require housing for mixed-income households to dedicate more than 20 percent of the units to affordable units of any kind.

(III) Housing for mixed-income households that is required to dedicate 20 percent of the units to affordable units shall not be required to dedicate any of the affordable units at an income level deeper than lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A local agency may only require housing for mixed-income households to comply with the local percentage requirement or affordability level described in subclause (I) if it first makes written findings, supported by a preponderance of evidence, that compliance with the local percentage requirement or the affordability level, or both, would not render the housing development project infeasible. If a reasonable person could find compliance with either requirement, either alone or in combination, would render the project infeasible, the project shall not be required to comply with that requirement.

(ii) Affordable units in the development project shall have a comparable bedroom and bathroom count as the market rate units.

(iii) Each affordable unit dedicated pursuant to this subparagraph shall count toward satisfying a local affordable housing requirement. Each affordable unit dedicated pursuant to a local affordable housing requirement that meets the criteria established in this subparagraph shall count towards satisfying the requirements of this subparagraph. This is declaratory of existing law.

(7) (A) For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition

1 of a builder's remedy project, it may choose to be subject to any
2 or all of the provisions of this section applicable as of January 1,
3 2025.

4 (B) Notwithstanding subdivision (c) of Section 65941.1, for a
5 housing development project deemed complete before January 1,
6 2025, the development proponent may choose to revise their
7 application so that the project is a builder's remedy project, without
8 being required to resubmit a preliminary application, even if the
9 revision results in the number of residential units or square footage
10 of construction changing by 20 percent or more.

11 (8) A housing development project proposed on a site that is
12 identified as suitable or available for very low, low-, or
13 moderate-income households in the jurisdiction's housing element,
14 that is consistent with the density specified in the most recently
15 updated and adopted housing element, and that is inconsistent with
16 both the jurisdiction's zoning ordinance and general plan land use
17 designation on the date the application was deemed complete, shall
18 be subject to the provisions of subparagraphs (A), (B), and (D) of
19 paragraph (6) and paragraph (9).

20 (9) For purposes of this subdivision, "objective, quantifiable,
21 written development standards, conditions, and policies" means
22 criteria that involve no personal or subjective judgment by a public
23 official and are uniformly verifiable by reference to an external
24 and uniform benchmark or criterion available and knowable by
25 both the development applicant or proponent and the public official
26 before submittal, including, but not limited to, any standard,
27 ordinance, or policy described in paragraph (4) of subdivision (o).
28 Nothing herein shall affect the obligation of the housing
29 development project to comply with the minimum building
30 standards approved by the California Building Standards
31 Commission as provided in Part 2.5 (commencing with Section
32 18901) of Division 13 of the Health and Safety Code. In the event
33 that applicable objective, quantifiable, written development
34 standards, conditions, and policies are mutually inconsistent, a
35 development shall be deemed consistent with the criteria that
36 permits the density and unit type closest to that of the proposed
37 project.

38 (g) This section shall be applicable to charter cities because the
39 Legislature finds that the lack of housing, including emergency
40 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 that meet any of the following conditions:

(i) A mixed-use development that meets both of the following:

(I) At least two-thirds of the new or converted square footage is designated for residential use.

(II) (ia) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging.

(ib) (Ia) Notwithstanding sub-subclause (ia), if a mixed-use project as defined in this paragraph includes a hotel, motel, bed and breakfast inn, or other transient lodging, the portion of the mixed-use project which does not include a hotel, motel, bed and breakfast inn, or other transient lodging shall be considered a housing development project.

(Ib) The local agency may separately approve the portion of the project that includes a hotel, motel, bed and breakfast inn, or other transient lodging, which shall not be eligible for any benefits conferred on a housing development project by state law, including, but not limited to, those available to a development under Section 65913.4.

(ic) For purposes of this subclause, the term “other transient lodging” does not include either of the following:

(Ia) A residential hotel, as defined in Section 50519 of the Health and Safety Code.

(Ib) After the issuance of a certificate of occupancy, a resident’s use or marketing of a unit as short-term lodging, as defined in Section 17568.8 of the Business and Professions Code, in a manner consistent with local law.

(ii) At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:

(I) The project includes at least 500 net new residential units.

(II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(iii) At least 50 percent of the net new or converted square footage is designated for residential use and the project meets all of the following:

(I) The project includes at least 500 net new residential units.

(II) The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use.

(III) The project demolishes at least 50 percent of the existing nonresidential uses on the site.

(IV) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(C) Transitional housing or supportive housing.

(D) Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(3) (A) "Housing for very low, low-, or moderate-income households" means housing for lower income households, mixed-income households, or moderate-income households.

(B) "Housing for lower income households" means a housing development project in which 100 percent of the units, excluding managers' units, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(C) (i) "Housing for mixed-income households" means any of the following:

(I) A housing development project in which at least 7 percent of the total units, as defined in subparagraph (A) of paragraph (9) of subdivision (o) of Section 65915, are dedicated to extremely low income households, as defined in Section 50106 of the Health and Safety Code.

1 (II) A housing development project in which at least 10 percent
2 of the total units, as defined in subparagraph (A) of paragraph (9)
3 of subdivision (o) of Section 65915, are dedicated to very low
4 income households, as defined in Section 50105 of the Health and
5 Safety Code.

6 (III) A housing development project in which at least 13 percent
7 of the total units, as defined in subparagraph (A) of paragraph (9)
8 of subdivision (o) of Section 65915, are dedicated to lower income
9 households, as defined in Section 50079.5 of the Health and Safety
10 Code.

11 (IV) A housing development project in which there are 10 or
12 fewer total units, as defined in subparagraph (A) of paragraph (9)
13 of subdivision (o) of Section 65915, that is on a site that is smaller
14 than one acre, and that is proposed for development at a minimum
15 density of 10 units per acre.

16 (ii) All units dedicated to extremely low income, very low
17 income, and low-income households pursuant to clause (i) shall
18 meet both of the following:

19 (I) The units shall have an affordable housing cost, as defined
20 in Section 50052.5 of the Health and Safety Code, or an affordable
21 rent, as defined in Section 50053 of the Health and Safety Code.

22 (II) The development proponent shall agree to, and the local
23 agency shall ensure, the continued affordability of all affordable
24 rental units included pursuant to this section for 55 years and all
25 affordable ownership units included pursuant to this section for a
26 period of 45 years.

27 (D) "Housing for moderate-income households" means a
28 housing development project in which 100 percent of the units are
29 sold or rented to moderate-income households, as defined in
30 Section 50093 of the Health and Safety Code, at an affordable
31 housing cost, as defined in Section 50052.5 of the Health and
32 Safety Code, or an affordable rent, as defined in Section 50053 of
33 the Health and Safety Code. The units shall be subject to a recorded
34 deed restriction for a period of 55 years for rental units and 45
35 years for owner-occupied units.

36 (4) "Area median income" means area median income as
37 periodically established by the Department of Housing and
38 Community Development pursuant to Section 50093 of the Health
39 and Safety Code.

(5) Notwithstanding any other law, “deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.

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

(A) Votes or takes final administrative action 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) of Chapter 4.5 shall be deemed to be an extension of time pursuant to this paragraph.

(C) Fails to comply with subdivisions (b) to (e), inclusive, of Section 65913.3.

(D) Fails to meet the time limit specified in Section 17970.3 of the Health and Safety Code.

(E) Fails to cease a course of conduct undertaken for an improper purpose, such as to harass or to cause unnecessary delay or needless increases in the cost of the proposed housing development project, that effectively disapproves the proposed housing development without taking final administrative action if all of the following conditions are met:

(i) The project applicant provides written notice detailing the challenged conduct and why it constitutes disapproval to the local agency established under Section 65100.

(ii) Within five working days of receiving the applicant’s written notice described in clause (i), the local agency shall post the notice on the local agency’s internet website, provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and file the notice with the county clerk of each county in which the project will be located. The county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code.

(iii) The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant’s written

1 notice and shall not make a determination until at least 60 days
2 after the applicant has given written notice to the local agency
3 pursuant to clause (i).

4 (iv) Within 90 days of receipt of the applicant's written notice
5 described in clause (i), the local agency shall issue a written
6 statement that it will immediately cease the challenged conduct or
7 issue written findings that comply with both of the following
8 requirements:

9 (I) The findings articulate an objective basis for why the
10 challenged course of conduct is necessary.

11 (II) The findings provide clear instructions on what the applicant
12 must submit or supplement so that the local agency can make a
13 final determination regarding the next necessary approval or set
14 the date and time of the next hearing.

15 (v) (I) If a local agency continues the challenged course of
16 conduct described in the applicant's written notice and fails to
17 issue the written findings described in clause (iv), the local agency
18 shall bear the burden of establishing that its course of conduct does
19 not constitute a disapproval of the housing development project
20 under this subparagraph in an action taken by the applicant.

21 (II) If an applicant challenges a local agency's course of conduct
22 as a disapproval under this subparagraph, the local agency's written
23 findings described in clause (iv) shall be incorporated into the
24 administrative record and be deemed to be the final administrative
25 action for purposes of adjudicating whether the local agency's
26 course of conduct constitutes a disapproval of the housing
27 development project under this subparagraph.

28 (vi) A local agency's action in furtherance of complying with
29 the California Environmental Quality Act (Division 13
30 (commencing with Section 21000) of the Public Resources Code),
31 including, but not limited to, imposing mitigating measures, shall
32 not constitute project disapproval under this subparagraph.

33 (F) Fails to comply with Section 65905.5. For purposes of this
34 subparagraph, a builder's remedy project shall be deemed to
35 comply with the applicable, objective general plan and zoning
36 standards in effect at the time an application is deemed complete.

37 (G) (i) Determines that an application for a housing
38 development project is incomplete pursuant to subdivision (a) or
39 (b) of Section 65943 and includes in the determination an item
40 that is not required on the local agency's submittal requirement

1 checklist. The local agency shall bear the burden of proof that the
2 required item is listed on the submittal requirement checklist.

3 (ii) In a subsequent review of an application pursuant to Section
4 65943, requests the applicant provide new information that was
5 not identified in the initial determination and upholds this
6 determination in the final written determination on an appeal filed
7 pursuant to subdivision (c) of Section 65943. The local agency
8 shall bear the burden of proof that the required item was identified
9 in the initial determination.

10 (iii) Determines that an application for a housing development
11 project is incomplete pursuant to subdivision (a) or (b) of Section
12 65943, a reasonable person would conclude that the applicant has
13 submitted all of the items required on the local agency's submittal
14 requirement checklist, and the local agency upholds this
15 determination in the final written determination on an appeal filed
16 pursuant to subdivision (c) of Section 65943.

17 (iv) If a local agency determines that an application is
18 incomplete under Section 65943 after two resubmittals of the
19 application by the applicant, the local agency shall bear the burden
20 of establishing that the determination is not an effective disapproval
21 of a housing development project under this section.

22 (H) Violates subparagraph (D) or (E) of paragraph (6) of
23 subdivision (f).

24 (I) Makes a written determination that a preliminary application
25 described in subdivision (a) of Section 65941.1 has expired or that
26 the applicant has otherwise lost its vested rights under the
27 preliminary application for any reason other than those described
28 in subdivisions (d) and (e) of Section 65941.1.

29 (J) (i) Fails to make a determination of whether the project is
30 exempt from the California Environmental Quality Act (Division
31 13 (commencing with Section 21000) of the Public Resources
32 Code), or commits an abuse of discretion, as defined in subdivision
33 (b) of Section 65589.5.1 if all of the conditions in Section
34 65589.5.1 are satisfied.

35 (ii) This subparagraph shall become inoperative on January 1,
36 2031.

37 (K) (i) Fails to adopt a negative declaration or addendum for
38 the project, to certify an environmental impact report for the
39 project, or to approve another comparable environmental document,
40 such as a sustainable communities environmental assessment

1 pursuant to Section 21155.2 of the Public Resources Code, as
2 required pursuant to the California Environmental Quality Act
3 (Division 13 (commencing with Section 21000) of the Public
4 Resources Code), if all of the conditions in Section 65589.5.2 are
5 satisfied.

6 (ii) This subparagraph shall become inoperative on January 1,
7 2031.

8 (7) (A) For purposes of this section and Sections 65589.5.1 and
9 65589.5.2, “lawful determination” means any final decision about
10 whether to approve or disapprove a statutory or categorical
11 exemption or a negative declaration, addendum, environmental
12 impact report, or comparable environmental review document
13 under the California Environmental Quality Act (Division 13
14 (commencing with Section 21000) of the Public Resources Code)
15 that is not an abuse of discretion, as defined in subdivision (b) of
16 Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

17 (B) This paragraph shall become inoperative on January 1, 2031.

18 (8) “Lower density” includes any conditions that have the same
19 effect or impact on the ability of the project to provide housing.

20 (9) “Objective” means involving no personal or subjective
21 judgment by a public official and being uniformly verifiable by
22 reference to an external and uniform benchmark or criterion
23 available and knowable by both the development applicant or
24 proponent and the public official.

25 (10) Notwithstanding any other law, “determined to be
26 complete” means that the applicant has submitted a complete
27 application pursuant to Section 65943.

28 (11) “Builder’s remedy project” means a project that meets all
29 of the following criteria:

30 (A) The project is a housing development project that provides
31 housing for very low, low-, or moderate-income households.

32 (B) On or after the date an application for the housing
33 development project or emergency shelter was deemed complete,
34 the jurisdiction did not have a housing element that was in
35 substantial compliance with this article.

36 (C) The project has a density such that the number of units, as
37 calculated before the application of a density bonus pursuant to
38 Section 65915, complies with all of the following conditions:

39 (i) The density does not exceed the greatest of the following
40 densities:

1 (I) Fifty percent greater than the minimum density deemed
2 appropriate to accommodate housing for that jurisdiction as
3 specified in subparagraph (B) of paragraph (3) of subdivision (c)
4 of Section 65583.2.

5 (II) Three times the density allowed by the general plan, zoning
6 ordinance, or state law, whichever is greater.

7 (III) The density that is consistent with the density specified in
8 the housing element.

9 (ii) Notwithstanding clause (i), the greatest allowable density
10 shall be 35 units per acre more than the amount allowable pursuant
11 to clause (i), if any portion of the site is located within any of the
12 following:

13 (I) One-half mile of a major transit stop, as defined in Section
14 21064.3 of the Public Resources Code.

15 (II) A very low vehicle travel area, as defined in subdivision
16 (b) of Section 65589.5.1.

17 (III) A high or highest resource census tract, as identified by
18 the latest edition of the “CTCAC/HCD Opportunity Map”
19 published by the California Tax Credit Allocation Committee and
20 the Department of Housing and Community Development.

21 (D) (i) On sites that have a minimum density requirement and
22 are located within one-half mile of a commuter rail station or a
23 heavy rail station, the density of the project shall not be less than
24 the minimum density required on the site.

25 (I) For purposes of this subparagraph, “commuter rail” means
26 a railway that is not a light rail, streetcar, trolley, or tramway and
27 that is for urban passenger train service consisting of local short
28 distance travel operating between a central city and adjacent suburb
29 with service operated on a regular basis by or under contract with
30 a transit operator for the purpose of transporting passengers within
31 urbanized areas, or between urbanized areas and outlying areas,
32 using either locomotive-hauled or self-propelled railroad passenger
33 cars, with multitrip tickets and specific station-to-station fares.

34 (II) For purposes of this subparagraph, “heavy rail” means an
35 electric railway with the capacity for a heavy volume of traffic
36 using high speed and rapid acceleration passenger rail cars
37 operating singly or in multicar trains on fixed rails, separate
38 rights-of-way from which all other vehicular and foot traffic are
39 excluded, and high platform loading.

1 (ii) On all other sites with a minimum density requirement, the
2 density of the project shall not be less than the local agency's
3 minimum density or one-half of the minimum density deemed
4 appropriate to accommodate housing for that jurisdiction as
5 specified in subparagraph (B) of paragraph (3) of subdivision (c)
6 of Section 65583.2, whichever is lower.

7 (E) The project site does not abut a site where more than
8 one-third of the square footage on the site has been used, within
9 the past three years, by a heavy industrial use, or a Title V
10 industrial use, as those terms are defined in Section 65913.16.

11 (12) "Condition approval" includes imposing on the housing
12 development project, or attempting to subject it to, development
13 standards, conditions, or policies.

14 (13) "Unit type" means the form of ownership and the kind of
15 residential unit, including, but not limited to, single-family
16 detached, single-family attached, for-sale, rental, multifamily,
17 townhouse, condominium, apartment, manufactured homes and
18 mobilehomes, factory-built housing, and residential hotel.

19 (14) "Proposed by the applicant" means the plans and designs
20 as submitted by the applicant, including, but not limited to, density,
21 unit size, unit type, site plan, building massing, floor area ratio,
22 amenity areas, open space, parking, and ancillary commercial uses.

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

38 (j) (1) When a proposed housing development project complies
39 with applicable, objective general plan, zoning, and subdivision
40 standards and criteria, including design review standards, in effect

1 at the time that the application was deemed complete, but the local
2 agency proposes to disapprove the project or to impose a condition
3 that the project be developed at a lower density, the local agency
4 shall base its decision regarding the proposed housing development
5 project upon written findings supported by a preponderance of the
6 evidence on the record that both of the following conditions exist:

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

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

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

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

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

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

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

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

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

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

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

38 (III) The local agency, in violation of subdivision (o), required
39 or attempted to require a housing development project to comply

1 with an ordinance, policy, or standard not adopted and in effect
2 when a preliminary application was submitted.

3 (IV) The local agency violated a provision of this section
4 applicable to a builder's remedy project.

5 (ii) If the court finds that one of the conditions in clause (i) is
6 met, the court shall issue an order or judgment compelling
7 compliance with this section within a time period not to exceed
8 60 days, including, but not limited to, an order that the local agency
9 take action on the housing development project or emergency
10 shelter. The court may issue an order or judgment directing the
11 local agency to approve the housing development project or
12 emergency shelter if the court finds that the local agency acted in
13 bad faith when it disapproved or conditionally approved the
14 housing development or emergency shelter in violation of this
15 section. The court shall retain jurisdiction to ensure that its order
16 or judgment is carried out and shall award reasonable attorney's
17 fees and costs of suit to the plaintiff or petitioner, provided,
18 however, that the court shall not award attorney's fees in either of
19 the following instances:

20 (I) The court finds, under extraordinary circumstances, that
21 awarding fees would not further the purposes of this section.

22 (II) (ia) In a case concerning a disapproval within the meaning
23 of subparagraph (J) or (K) of paragraph (6) of subdivision (h), the
24 court finds that the local agency acted in good faith and had
25 reasonable cause to disapprove the housing development project
26 due to the existence of a controlling question of law about the
27 application of the California Environmental Quality Act (Division
28 13 (commencing with Section 21000) of the Public Resources
29 Code) or implementing guidelines as to which there was a
30 substantial ground for difference of opinion at the time of the
31 disapproval.

32 (ib) This subclause shall become inoperative on January 1, 2031.

33 (B) Upon a determination that the local agency has failed to
34 comply with the order or judgment compelling compliance with
35 this section within the time period prescribed by the court, the
36 court shall impose fines on a local agency that has violated this
37 section and require the local agency to deposit any fine levied
38 pursuant to this subdivision into a local housing trust fund. The
39 local agency may elect to instead deposit the fine into the Building
40 Homes and Jobs Trust 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 the 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 Trust Fund for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(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.

(D) Nothing in this section shall limit the court's inherent authority to make any other orders to compel the immediate enforcement of any writ brought under this section, including the imposition of fees and other sanctions set forth under Section 1097 of the Code of Civil Procedure.

(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

1 nonprofit organization whose mission includes providing or
2 advocating for increased access to housing for low-income
3 households and have filed written or oral comments with the local
4 agency prior to action on the housing development project. A
5 housing organization may only file an action pursuant to this
6 section to challenge the disapproval of a housing development by
7 a local agency. A housing organization shall be entitled to
8 reasonable attorney's fees and costs if it is the prevailing party in
9 an action to enforce this section.

10 (l) If the court finds that the local agency (1) acted in bad faith
11 when it violated this section and (2) failed to carry out the court's
12 order or judgment within the time period prescribed by the court,
13 the court, in addition to any other remedies provided by this
14 section, shall multiply the fine determined pursuant to subparagraph
15 (B) of paragraph (1) of subdivision (k) by a factor of five. If a court
16 has previously found that the local agency violated this section
17 within the same planning period, the court shall multiply the fines
18 by an additional factor for each previous violation. For purposes
19 of this section, "bad faith" includes, but is not limited to, an action
20 or inaction that is frivolous, pretextual, intended to cause
21 unnecessary delay, or entirely without merit.

22 (m) (1) Any action brought to enforce the provisions of this
23 section shall be brought pursuant to Section 1094.5 of the Code
24 of Civil Procedure, and the local agency shall prepare and certify
25 the record of proceedings in accordance with subdivision (c) of
26 Section 1094.6 of the Code of Civil Procedure no later than 30
27 days after the petition is served, provided that the cost of
28 preparation of the record shall be borne by the local agency, unless
29 the petitioner elects to prepare the record as provided in subdivision
30 (n) of this section. A petition to enforce the provisions of this
31 section shall be filed and served no later than 90 days from the
32 later of (1) the effective date of a decision of the local agency
33 imposing conditions on, disapproving, or any other final action on
34 a housing development project or (2) the expiration of the time
35 periods specified in subparagraph (B) of paragraph (6) of
36 subdivision (h). Upon entry of the trial court's order, a party may,
37 in order to obtain appellate review of the order, file a petition
38 within 20 days after service upon it of a written notice of the entry
39 of the order, or within such further time not exceeding an additional
40 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.

(2) (A) A disapproval within the meaning of subparagraph (J) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within the time period set forth in paragraph (5) of subdivision (a) of Section 65589.5.1 after the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(3) (A) A disapproval within the meaning of subparagraph (K) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within 90 days of the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(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), all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

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

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

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

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

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

12 (C) Subjecting the housing development project to an ordinance,
13 policy, standard, or any other measure, beyond those in effect when
14 a preliminary application was submitted is necessary to avoid or
15 substantially lessen an impact of the project under the California
16 Environmental Quality Act (Division 13 (commencing with Section
17 21000) of the Public Resources Code).

18 (D) The housing development project has not commenced
19 construction within two and one-half years, or three and one-half
20 years for an affordable housing project, following the date that the
21 project received final approval. For purposes of this subparagraph:

22 (i) “Affordable housing project” means a housing development
23 that satisfies both of the following requirements:

24 (I) Units within the development are subject to a recorded
25 affordability restriction for at least 55 years for rental housing and
26 45 years for owner-occupied housing, or the first purchaser of each
27 unit participates in an equity sharing agreement as described in
28 subparagraph (C) of paragraph (2) of subdivision (c) of Section
29 65915.

30 (II) All of the units within the development, excluding managers’
31 units, are dedicated to lower income households, as defined by
32 Section 50079.5 of the Health and Safety Code.

33 (ii) “Final approval” means that the housing development project
34 has received all necessary approvals to be eligible to apply for,
35 and obtain, a building permit or permits and either of the following
36 is met:

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

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

3 (E) The housing development project is revised following
4 submittal of a preliminary application pursuant to Section 65941.1
5 such that the number of residential units or square footage of
6 construction changes by 20 percent or more, exclusive of any
7 increase resulting from the receipt of a density bonus, incentive,
8 concession, waiver, or similar provision, including any other locally
9 authorized program that offers additional density or other
10 development bonuses when affordable housing is provided. For
11 purposes of this subdivision, “square footage of construction”
12 means the building area, as defined by the California Building
13 Standards Code (Title 24 of the California Code of Regulations).

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

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

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

32 (6) This subdivision shall not restrict the authority of a public
33 agency or local agency to require mitigation measures to lessen
34 the impacts of a housing development project under the California
35 Environmental Quality Act (Division 13 (commencing with Section
36 21000) of the Public Resources Code).

37 (7) With respect to completed residential units for which the
38 project approval process is complete and a certificate of occupancy
39 has been issued, nothing in this subdivision shall limit the
40 application of later enacted ordinances, policies, and standards

1 that regulate the use and occupancy of those residential units, such
2 as ordinances relating to rental housing inspection, rent
3 stabilization, restrictions on short-term renting, and business
4 licensing requirements for owners of rental housing.

5 (p) (1) Upon any motion for an award of attorney's fees
6 pursuant to Section 1021.5 of the Code of Civil Procedure, in a
7 case challenging a local agency's approval of a housing
8 development project, a court, in weighing whether a significant
9 benefit has been conferred on the general public or a large class
10 of persons and whether the necessity of private enforcement makes
11 the award appropriate, shall give due weight to the degree to which
12 the local agency's approval furthers policies of this section,
13 including, but not limited to, subdivisions (a), (b), and (c), the
14 suitability of the site for a housing development, and the
15 reasonableness of the decision of the local agency. It is the intent
16 of the Legislature that attorney's fees and costs shall rarely, if ever,
17 be awarded if a local agency, acting in good faith, approved a
18 housing development project that satisfies conditions established
19 in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1
20 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

21 (2) This subdivision shall become inoperative on January 1,
22 2031.

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

25 (r) The provisions of this section are severable. If any provision
26 of this section or its application is held invalid, that invalidity shall
27 not affect other provisions or applications that can be given effect
28 without the invalid provision or application.

29 SEC. 2. Section 65913.3 of the Government Code is amended
30 to read:

31 65913.3. (a) (1) A local agency or state agency shall compile
32 one or more lists that shall specify in detail the information that
33 will be required from any applicant for a postentitlement phase
34 permit. The local agency or state agency may revise the lists of
35 information required from an applicant. Any revised list shall not
36 apply to any permit pending review.

37 (2) A local agency or state agency shall post an example of a
38 complete, approved application and an example of a complete set
39 of postentitlement phase permits. A local agency shall post
40 examples for at least five types of housing development projects

1 in the jurisdiction, including, but not limited to, accessory dwelling
2 unit, duplex, multifamily, mixed use, and townhome.

3 (3) (A) A local agency shall make the items required by
4 paragraphs (1) and (2) available on the agency's internet website
5 no later than January 1, 2024.

6 (B) A state agency shall make the items required by paragraphs
7 (1) and (2) available on the agency's internet website no later than
8 January 1, 2026.

9 (b) (1) (A) A local agency or state agency shall determine
10 whether an application for a postentitlement phase permit is
11 complete and provide written notice of this determination to the
12 applicant not later than 15 business days after the local agency or
13 state agency received the application.

14 (B) If the local agency or state agency determines an application
15 is incomplete, the local agency or state agency shall provide the
16 applicant with a list of incomplete items and a description of how
17 the application can be made complete. The list shall be limited to
18 incomplete items that are included on the lists required by
19 paragraph (1) of subdivision (a). The list and description shall be
20 provided with the written notice required by subparagraph (A).

21 (2) (A) After receiving a notice that the application was
22 incomplete, an applicant may cure and address the items that are
23 deemed to be incomplete by the local agency or state agency.

24 (B) In the review of an application submitted pursuant to
25 subparagraph (A), the local agency or state agency shall not require
26 the application to include an item that was not included in the list
27 required by subparagraph (B) of paragraph (1).

28 (C) If an applicant submits an application pursuant to
29 subparagraph (A), the local agency or state agency shall determine
30 whether the additional application has remedied all incomplete
31 items listed in the determination issued pursuant to subparagraph
32 (B) of paragraph (1). This additional application is subject to the
33 timelines and requirements specified in subparagraph (A) of
34 paragraph (1).

35 (3) If a local agency or state agency does not make a timely
36 determination as required by paragraph (1) or (2) and the
37 application or resubmitted application states that it is for a
38 postentitlement phase permit, the application or resubmitted
39 application shall be deemed to be complete for the purposes of
40 this chapter.

1 (c) (1) (A) For housing development projects with 25 units or
2 fewer, a local agency or state agency shall complete the review
3 and do either of the following:

4 (i) If the local agency or state agency determines that the
5 complete application is not compliant with the permit standards,
6 return in writing a full set of comments to the applicant with a
7 comprehensive request for revisions.

8 (ii) If the local agency or state agency determines that the
9 complete application is compliant with the permit standards, return
10 the approved permit application on each postentitlement phase
11 permit requested.

12 (B) The local agency or state agency shall immediately transmit
13 that determination to the applicant by electronic mail and, if
14 applicable, by posting the response on its internet website in the
15 manner prescribed in subdivision (b) of Section 65913.3.5 not later
16 than 30 business days after the local agency or state agency
17 determines that an application for a postentitlement phase permit
18 is complete pursuant to subdivision (b).

19 (C) (i) As part of its review, the local agency or state agency
20 shall not require or request more than two plan check and
21 specification reviews in connection with an application for a
22 building permit, unless the local agency's or state agency's
23 requirement or request for additional review is accompanied by
24 written findings based on substantial evidence in the record that
25 the additional review is necessary to address a specific, adverse
26 impact on public health or safety.

27 (ii) Notwithstanding clause (i), a local agency or state agency
28 may deny an application that is not compliant with the permit
29 standards following two plan check and specification reviews.

30 (iii) An applicant may request additional submittals of
31 applications that are not compliant with the permit standards.

32 (iv) This subparagraph shall not be construed to affect the
33 number of submittals that a local agency or state agency may
34 require or request for any postentitlement phase permit other than
35 a building permit.

36 (2) (A) For housing development projects with 26 units or more,
37 a local agency or state agency shall complete the review and do
38 either of the following:

39 (i) If the local agency or state agency determines that the
40 complete application is not compliant with the permit standards,

1 return in writing a full set of comments to the applicant with a
2 comprehensive request for revisions.

3 (ii) If the local agency or state agency determines that the
4 complete application is compliant with the permit standards, return
5 the approved permit application on each postentitlement phase
6 permit requested.

7 (B) The local agency or state agency shall immediately transmit
8 that determination to the applicant by electronic mail and, if
9 applicable, by posting the response on its internet website in the
10 manner prescribed in subdivision (b) of Section 65913.3.5 not later
11 than 60 business days after the local agency or state agency
12 determines that an application for a postentitlement phase permit
13 is complete pursuant to subdivision (b).

14 (C) (i) As part of its review, the local agency or state agency
15 shall not require or request more than two plan check and
16 specification reviews in connection with an application for a
17 building permit, unless the local agency's or state agency's
18 requirement or request for additional review is accompanied by
19 written findings based on substantial evidence in the record that
20 the additional review is necessary to address a specific, adverse
21 impact on public health or safety.

22 (ii) Notwithstanding clause (i), a local agency or state agency
23 may deny an application that is not compliant with the permit
24 standards following two plan check and specification reviews.

25 (iii) An applicant may request additional submittals of
26 applications that are not compliant with the permit standards.

27 (iv) This subparagraph shall not be construed to affect the
28 number of submittals that a local agency or state agency may
29 require or request for any postentitlement phase permit other than
30 a building permit.

31 (3) Once a local agency or state agency determines that a
32 postentitlement phase permit is compliant with applicable permit
33 standards pursuant to paragraph (1) or (2), the local agency or state
34 agency shall not subject the postentitlement phase permit to any
35 appeals or additional hearing requirements.

36 (4) The time limits in this subdivision shall not apply if the local
37 agency or state agency makes written findings within the time
38 limits specified in paragraph (1) or (2) based on substantial
39 evidence in the record that the proposed postentitlement phase
40 permit might have a specific, adverse impact on public health or

1 safety and that additional time is necessary to process the
2 application.

3 (5) (A) If federal or state law requires review of the application
4 by another public agency that is independent of the local agency
5 or state agency before the local agency or state agency is authorized
6 to act on the application, the time limits in this subdivision shall
7 be tolled for the application until the public agency completes the
8 review and returns the application to the local agency or state
9 agency.

10 (B) After the public agency returns the application to the local
11 agency or state agency, the local agency or state agency shall
12 complete the review within the time remaining under the time
13 limit, subject to subparagraph (C).

14 (C) Within three business days of the start of the tolling and
15 within three business days of the resumption of the time limit, the
16 local agency or state agency shall notify the applicant of the tolling
17 and the resumption of the time limit, respectively, by electronic
18 mail and, if applicable, by posting the notification on its internet
19 website in the manner prescribed in subdivision (b) of Section
20 65913.3.5.

21 (d) (1) If a local agency or state agency finds that a complete
22 application is noncompliant, the local agency or state agency shall
23 provide the applicant with a list of items that are noncompliant
24 and a description of how the application can be remedied by the
25 applicant within the time limits specified in subdivision (c).

26 (2) The local agency or state agency shall provide the list and
27 description authorized by paragraph (1) when it transmits its
28 determination to the applicant as required by subdivision (c).

29 (3) If a local agency or state agency denies a postentitlement
30 phase permit application based on a determination that the
31 application is noncompliant, the applicant may attempt to remedy
32 the application.

33 (4) If an applicant submits an application pursuant to paragraph
34 (3), the additional application is subject to the timelines of a new
35 application as specified in subdivision (c).

36 (5) The local agency or state agency shall not request or require
37 any action or inaction as a result of a building inspection
38 undertaken to assess compliance with the applicable building
39 permit standards that would represent a deviation from a previously
40 approved building plan or similar approval for the building permit,

1 unless the local agency's or state agency's requirement or request
2 is accompanied by written findings based on substantial evidence
3 in the record that both of the following apply:

4 (A) A reasonable person could not interpret the building plan
5 or similar approval that was approved by the local agency or state
6 agency as being compliant with the applicable standards for the
7 building permit.

8 (B) The deviation is necessary to address a specific, adverse
9 impact on public health or safety.

10 (e) (1) If a postentitlement phase permit is determined to be
11 incomplete under subdivision (b) or denied or determined to be
12 noncompliant under subdivision (c) or (d), the local agency or state
13 agency shall provide a process for the applicant to appeal that
14 decision in writing to the governing body of the agency.

15 (2) (A) With respect to a postentitlement phase permit
16 concerning housing development projects with 25 units or fewer,
17 a local agency or state agency on the appeal shall provide a final
18 written determination by not later than 30 business days after
19 receipt of the applicant's written appeal.

20 (B) With respect to a postentitlement phase permit concerning
21 housing development projects with 26 units or more, a local agency
22 or state agency on the appeal shall provide a final written
23 determination by not later than 45 business days after receipt of
24 the applicant's written appeal.

25 (3) If the applicant's appeal pursuant to this subdivision is
26 denied, or a decision on the appeal is not made within the timelines
27 provided, or an appeals process is not provided as required, the
28 applicant may seek a writ of mandate to compel approval of the
29 application.

30 (f) If a local agency violates subdivisions (b) to (e), inclusive,
31 it shall be in violation of Section 65589.5.

32 (g) If a state agency violates subdivisions (b) to (e), inclusive,
33 the permit shall be deemed approved and any related reviews shall
34 be deemed complete.

35 (h) Except as provided in subparagraph (C) of paragraph (1) of,
36 and subparagraph (C) of paragraph (2) of, subdivision (c), this
37 section does not place limitations on the amount of feedback that
38 a local agency or state agency may provide or revisions that a local
39 agency or state agency may request of an applicant.

1 (i) For residential or residential mixed-use developments that
2 are subject to the requirements set forth in Section 65913.4, the
3 provisions of paragraph (2) of subdivision (h) of Section 65913.4
4 shall apply. Permits for these developments that are subject to
5 paragraph (2) of subdivision (h) of Section 65913.4 shall not be
6 in conflict with the requirements of this section. The local agency
7 or state agency shall comply with both sets of standards.

8 (j) This section does not preclude an applicant and a local agency
9 or state agency from mutually agreeing to an extension of any time
10 limit provided by this section. However, a local agency or state
11 agency shall not require an agreement as a condition of accepting
12 the application for, or processing of, a postentitlement phase permit,
13 unless the agreement is obtained for the purpose of permitting
14 concurrent processing of related approvals or an environmental
15 review on the same housing development project.

16 (k) For purposes of this section, the following definitions apply:

17 (1) "Housing development project" has the same meaning as in
18 paragraph (3) of subdivision (b) of Section 65905.5.

19 (2) "Local agency" means any county, city, or city and county.

20 (3) (A) "Postentitlement phase permit" includes all of the
21 following:

22 (i) All nondiscretionary permits and reviews that are required
23 or issued by the local agency after the entitlement process has been
24 completed to begin construction of a development that is intended
25 to be at least two-thirds residential, excluding discretionary and
26 ministerial planning permits, entitlements, and other permits and
27 reviews that are covered under Chapter 4.5 (commencing with
28 Section 65920). A postentitlement phase permit includes, but is
29 not limited to, all of the following:

30 (I) Building permits, and all interdepartmental reviews required
31 for the issuance of a building permit, including plan checking and
32 building inspection.

33 (II) Permits for minor or standard offsite improvements.

34 (III) Permits for demolition.

35 (IV) Permits for minor or standard excavation and grading.

36 (ii) All building permits and other permits issued under the
37 California Building Standards Code (Title 24 of the California
38 Code of Regulations) or any applicable local building code for the
39 construction, demolition, or alteration of buildings, whether
40 discretionary or nondiscretionary.

1 (iii) (I) Except as provided in subclause (II), any postentitlement
2 review by a state agency that is necessary to begin construction of
3 a development that is intended to be at least two-thirds residential,
4 excluding discretionary and ministerial planning permits,
5 entitlements, and other permits and reviews that are covered under
6 Chapter 4.5 (commencing with Section 65920).

7 (II) Notwithstanding subclause (I), a postentitlement phase
8 permit does not include either of the following:

9 (ia) A permit issued by a state agency acting pursuant to
10 delegated federal permitting or enforcement authority under the
11 federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) or the federal
12 Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.).

13 (ib) A permit authorizing discharges of waste to waters of the
14 state.

15 (B) A local agency or state agency may identify a threshold for
16 determining whether a permit constitutes a “minor” or “standard”
17 permit for the purposes of this paragraph, which shall be supported
18 by written findings. A local agency that identifies a threshold
19 pursuant to this subparagraph shall adopt the threshold by
20 ordinance.

21 (C) A postentitlement phase permit does not include a permit
22 required and issued by the California Coastal Commission, a
23 special district, or a utility that is not owned and operated by a
24 local agency.

25 (4) “Specific, adverse impact” means a significant, quantifiable,
26 direct, and unavoidable impact, based on objective, identified, and
27 written public health or safety standards, policies, or conditions
28 as they existed on the date the application was deemed complete.

29 (5) “State agency” has the same meaning as that term is defined
30 in Section 11000.

31 SEC. 3. The amendments of subclause (I) of clause (i) of
32 subparagraph (A) of paragraph (3) of subdivision ~~(j)~~ (k) of Section
33 65913.3 of the Government Code made by this act do not constitute
34 a change in, but are declaratory of, existing law.

35 SEC. 4. The Legislature finds and declares that Section 2 of
36 this act amending Section 65913.3 of the Government Code
37 addresses a matter of statewide concern rather than a municipal
38 affair as that term is used in Section 5 of Article XI of the
39 California Constitution. Therefore, Section 2 of this act applies to
40 all cities, including charter cities.

1 SEC. 5. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of Section
6 17556 of the Government Code.

O