

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 744**

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**Introduced by Assembly Member Chau**

February 25, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 744, as amended, Chau. Planning and zoning: density bonuses.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents. Existing law requires continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. *Existing law prohibits a city, county, or city and county from requiring a vehicular parking ratio for a housing development that meets these criteria in excess of specified ratios. This prohibition applies only at the request of the developer and specifies that the developer may request additional parking incentives or concessions.*

~~This bill would make technical, nonsubstantive changes to these provisions:~~

*This bill would additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a minimum onsite*

*parking requirement on a development that is located within one-half mile of a major transit stop, is a senior housing development, or is a special needs housing development, as those terms are defined. The bill would specify that a city, county, or city and county may impose a maximum onsite parking requirement for a development.*

*By imposing additional duties on local governments in awarding density bonuses, this bill would impose a state-mandated local program.*

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

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

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

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

- 1 SECTION 1. Section 65915 of the Government Code is
- 2 amended to read:
- 3 65915. (a) When an applicant seeks a density bonus for a
- 4 housing development within, or for the donation of land for housing
- 5 within, the jurisdiction of a city, county, or city and county, that
- 6 local government shall provide the applicant with incentives or
- 7 concessions for the production of housing units and child care
- 8 facilities as prescribed in this section. All cities, counties, or cities
- 9 and counties shall adopt an ordinance that specifies how
- 10 compliance with this section will be implemented. Failure to adopt
- 11 an ordinance shall not relieve a city, county, or city and county
- 12 from complying with this section.
- 13 (b) (1) A city, county, or city and county shall grant one density
- 14 bonus, the amount of which shall be as specified in subdivision
- 15 (f), and incentives or concessions, as described in subdivision (d),
- 16 when an applicant for a housing development seeks and agrees to
- 17 construct a housing development, excluding any units permitted
- 18 by the density bonus awarded pursuant to this section, that will
- 19 contain at least any one of the following:

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

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

7 (C) A senior citizen housing development, as defined in Sections  
8 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
9 residency based on age requirements for housing for older persons  
10 pursuant to Section 798.76 or 799.5 of the Civil Code.

11 (D) Ten percent of the total dwelling units in a common interest  
12 development, as defined in Section 4100 of the Civil Code, for  
13 persons and families of moderate income, as defined in Section  
14 50093 of the Health and Safety Code, provided that all units in the  
15 development are offered to the public for purchase.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 development is for-sale units, the units replaced shall be subject  
2 to paragraph (2).

3 (C) Paragraph (3) of subdivision (c) does not apply to an  
4 applicant seeking a density bonus for a proposed housing  
5 development if his or her application was submitted to, or  
6 processed by, a city, county, or city and county before January 1,  
7 2015.

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

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

20 (B) The concession or incentive would have a specific adverse  
21 impact, as defined in paragraph (2) of subdivision (d) of Section  
22 65589.5, upon public health and safety or the physical environment  
23 or on any real property that is listed in the California Register of  
24 Historical Resources and for which there is no feasible method to  
25 satisfactorily mitigate or avoid the specific adverse impact without  
26 rendering the development unaffordable to low- and  
27 moderate-income households.

28 (C) The concession or incentive would be contrary to state or  
29 federal law.

30 (2) The applicant shall receive the following number of  
31 incentives or concessions:

32 (A) One incentive or concession for projects that include at least  
33 10 percent of the total units for lower income households, at least  
34 5 percent for very low income households, or at least 10 percent  
35 for persons and families of moderate income in a common interest  
36 development.

37 (B) Two incentives or concessions for projects that include at  
38 least 20 percent of the total units for lower income households, at  
39 least 10 percent for very low income households, or at least 20

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

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

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

26 (e) (1) In no case may a city, county, or city and county apply  
27 any development standard that will have the effect of physically  
28 precluding the construction of a development meeting the criteria  
29 of subdivision (b) at the densities or with the concessions or  
30 incentives permitted by this section. An applicant may submit to  
31 a city, county, or city and county a proposal for the waiver or  
32 reduction of development standards that will have the effect of  
33 physically precluding the construction of a development meeting  
34 the criteria of subdivision (b) at the densities or with the  
35 concessions or incentives permitted under this section, and may  
36 request a meeting with the city, county, or city and county. If a  
37 court finds that the refusal to grant a waiver or reduction of  
38 development standards is in violation of this section, the court  
39 shall award the plaintiff reasonable attorney's fees and costs of  
40 suit. Nothing in this subdivision shall be interpreted to require a

1 local government to waive or reduce development standards if the  
 2 waiver or reduction would have a specific, adverse impact, as  
 3 defined in paragraph (2) of subdivision (d) of Section 65589.5,  
 4 upon health, safety, or the physical environment, and for which  
 5 there is no feasible method to satisfactorily mitigate or avoid the  
 6 specific adverse impact. Nothing in this subdivision shall be  
 7 interpreted to require a local government to waive or reduce  
 8 development standards that would have an adverse impact on any  
 9 real property that is listed in the California Register of Historical  
 10 Resources, or to grant any waiver or reduction that would be  
 11 contrary to state or federal law.

12 (2) A proposal for the waiver or reduction of development  
 13 standards pursuant to this subdivision shall neither reduce nor  
 14 increase the number of incentives or concessions to which the  
 15 applicant is entitled pursuant to subdivision (d).

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

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

27	Percentage Low-Income Units	Percentage Density
28		Bonus
29	10	20
30	11	21.5
31	12	23
32	13	24.5
33	14	26
34	15	27.5
35	17	30.5
36	18	32
37	19	33.5
38	20	35
39		
40		

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

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

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

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

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23

1	29	24
2	30	25
3	31	26
4	32	27
5	33	28
6	34	29
7	35	30
8	36	31
9	37	32
10	38	33
11	39	34
12	40	35

13  
 14 (5) All density ~~calculations~~ *calculations, including, but not*  
 15 *limited to, maximum allowable density, total affordable units, and*  
 16 *the total amount of density bonus*, resulting in fractional units shall  
 17 be rounded up to the next whole number. The granting of a density  
 18 bonus shall not be interpreted, in and of itself, to require a general  
 19 plan amendment, local coastal plan amendment, zoning change,  
 20 or other discretionary approval.

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

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

1	22	27
2	23	28
3	24	29
4	25	30
5	26	31
6	27	32
7	28	33
8	29	34
9	30	35

10

11 (2) This increase shall be in addition to any increase in density  
 12 mandated by subdivision (b), up to a maximum combined mandated  
 13 density increase of 35 percent if an applicant seeks an increase  
 14 pursuant to both this subdivision and subdivision (b). All density  
 15 ~~calculations~~ *calculations, including, but not limited to, maximum*  
 16 *allowable density, total affordable units, and the total amount of*  
 17 *density bonus*, resulting in fractional units shall be rounded up to  
 18 the next whole number. Nothing in this subdivision shall be  
 19 construed to enlarge or diminish the authority of a city, county, or  
 20 city and county to require a developer to donate land as a condition  
 21 of development. An applicant shall be eligible for the increased  
 22 density bonus described in this subdivision if all of the following  
 23 conditions are met:

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

27 (B) The developable acreage and zoning classification of the  
 28 land being transferred are sufficient to permit construction of units  
 29 affordable to very low income households in an amount not less  
 30 than 10 percent of the number of residential units of the proposed  
 31 development.

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

39 (D) The transferred land shall have all of the permits and  
 40 approvals, other than building permits, necessary for the

1 development of the very low income housing units on the  
2 transferred land, not later than the date of approval of the final  
3 subdivision map, parcel map, or residential development  
4 application, except that the local government may subject the  
5 proposed development to subsequent design review to the extent  
6 authorized by subdivision (i) of Section 65583.2 if the design is  
7 not reviewed by the local government prior to the time of transfer.

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

12 (F) The land is transferred to the local agency or to a housing  
13 developer approved by the local agency. The local agency may  
14 require the applicant to identify and transfer the land to the  
15 developer.

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

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

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

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

31 (B) An additional concession or incentive that contributes  
32 significantly to the economic feasibility of the construction of the  
33 child care facility.

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

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

1 (B) Of the children who attend the child care facility, the  
2 children of very low income households, lower income households,  
3 or families of moderate income shall equal a percentage that is  
4 equal to or greater than the percentage of dwelling units that are  
5 required for very low income households, lower income  
6 households, or families of moderate income pursuant to subdivision  
7 (b).

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

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

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

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

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

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

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

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

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

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

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

28 (m) This section ~~shall does not be construed to~~ supersede or in  
29 any way alter or lessen the effect or application of the California  
30 Coastal Act of 1976 (Division 20 (commencing with Section  
31 30000) of the Public Resources Code).

32 (n) If permitted by local ordinance, nothing in this section shall  
33 be construed to prohibit a city, county, or city and county from  
34 granting a density bonus greater than what is described in this  
35 section for a development that meets the requirements of this  
36 section or from granting a proportionately lower density bonus  
37 than what is required by this section for developments that do not  
38 meet the requirements of this section.

39 (o) For purposes of this section, the following definitions shall  
40 apply:

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

8 (2) “Maximum allowable residential density” means the density  
9 allowed under the zoning ordinance and land use element of the  
10 general plan, or if a range of density is permitted, means the  
11 maximum allowable density for the specific zoning range and land  
12 use element of the general plan applicable to the project. Where  
13 the density allowed under the zoning ordinance is inconsistent  
14 with the density allowed under the land use element of the general  
15 plan, the general plan density shall prevail.

16 (p) (1) Upon the request of the developer, ~~no~~ a city, county, or  
17 city and county shall *not* require a vehicular parking ratio, inclusive  
18 of handicapped and guest parking, of a development meeting the  
19 criteria of subdivision (b), that exceeds the following ratios:

- 20 (A) Zero to one bedroom: one onsite parking space.
- 21 (B) Two to three bedrooms: two onsite parking spaces.
- 22 (C) Four and more bedrooms: two and one-half parking spaces.

23 (2) If the total number of parking spaces required for a  
24 development is other than a whole number, the number shall be  
25 rounded up to the next whole number. For purposes of this  
26 subdivision, a development may provide “onsite parking” through  
27 tandem parking or uncovered parking, but not through onstreet  
28 parking.

29 (3) *Upon the request of the developer, a city, county, or city  
30 and county shall not impose a minimum onsite parking requirement  
31 on a development that meets any of the following criteria:*

32 (A) *The development is located within one-half mile of a major  
33 transit stop. For the purposes of this subparagraph, “major transit  
34 stop” has the same meaning as that term is defined in Section  
35 21064.3 of the Public Resources Code and also includes a major  
36 transit stop that is included in the applicable regional  
37 transportation plan. A project shall be considered to be within  
38 one-half mile of a major transit stop if all parcels within the project  
39 have no more than 25 percent of their area farther than one-half  
40 mile of the major transit stop and if not more than 10 percent of*

1 *the residential units or 100 units, whichever is fewer, in the project*  
2 *are farther than one-half mile from the major transit stop.*

3 *(B) The development is a senior citizen housing development,*  
4 *as defined in Sections 51.3 and 51.12 of the Civil Code.*

5 *(C) The development is a special needs development, as defined*  
6 *in Section 51312 of the Health and Safety Code.*

7 *(4) Notwithstanding paragraph (3), this subdivision does not*  
8 *preclude a city, county, or city and county from imposing a*  
9 *maximum onsite parking requirement for a development.*

10 ~~(3)~~

11 (5) This subdivision shall apply to a development that meets  
12 the requirements of subdivision (b) but only at the request of the  
13 applicant. An applicant may request parking incentives or  
14 concessions beyond those provided in this subdivision pursuant  
15 to subdivision (d).

16 *SEC. 2. If the Commission on State Mandates determines that*  
17 *this act contains costs mandated by the state, reimbursement to*  
18 *local agencies and school districts for those costs shall be made*  
19 *pursuant to Part 7 (commencing with Section 17500) of Division*  
20 *4 of Title 2 of the Government Code.*