Affordable Housing and High Road Jobs Act of 2022 Draft Guidelines

Government Code Sections

65912.100-65912.140

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May 5, 2026

The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations … have the dignity of statutes … [and]… delegation of legislative authority includes the power to elaborate the meaning of key statutory terms…

Ramirez v. Yosemite Water Co., 20 Cal. 4th 785, 800 (1999)

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

Government Code section 65912.102

Government Code sections 65912.100-140 relate to the resolution of a statewide concern and are narrowly tailored to limit any incursion into any legitimate municipal interests, and therefore the provisions of Government Code sections 65912.100-140, as supplemented and clarified by these Guidelines, are constitutional in all respects and preempt any and all inconsistent laws, ordinances, regulations, policies or other legal requirements imposed by any local government.

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INTRODUCTION

Assembly Bill (AB) 2011 (Chapter 647, Statutes of 2022) created the Affordable Housing and High Road Jobs Act (Act), effective July 1, 2023. AB 2243 (Chapter 272, Statutes of 2024) and AB 893 (Chapter 500, Statutes of 2025) made subsequent amendments to AB 2011, effective January 1, 2025 and January 1, 2026, respectively. The bills' provisions can be found in **Government Code, Title 7, Division 1, Chapter 4.1, Articles 1 through 5 (Government Code sections 65912.100-140)**. This legislation facilitates and expedites the construction of housing on commercially zoned sites and sites along commercial corridors. The Act requires the availability of a streamlined, ministerial review process for qualifying multifamily housing projects on sites where office, retail, or parking are already permitted uses. The statute contains two review pathways: one for 100 percent affordable lower income developments and another for mixed-income developments meeting specified affordability levels. In addition to the specified affordability, developments under each pathway must meet corresponding eligibility requirements. These include, but are not limited to, site and location requirements, demolition restrictions, and density and development regulations.

Pursuant to the statute's definition of *local government* in Government Code section 65912.101, subdivision (j), the Legislature ensured that this law applies to all cities, counties, and cities and counties, including charter cities. The California Department of Housing and Community Development (Department) may take action in cases where these Guidelines are not adhered to under its existing accountability and enforcement authority pursuant to Government Code section 65585, subdivision (j). Developers and local governments using these Guidelines should refer to Chapter 4.1, Government Code sections 65912.100 through 65912.140 for full statutory provisions to comply with any new mandates resulting from statutory changes made after these Guidelines are published.

The Guidelines for the Affordable Housing and High Road Jobs Act (hereinafter "Guidelines") are organized into seven Articles, as follows:

<u>Article I. General Provisions</u>: Includes information on the purpose and applicability of the Guidelines, and definitions used throughout the document. The definitions provided in Section 102 encompass and expand upon the terms and definitions provided in Government Code section 65912.101.

<u>Article II. Requirements for 100 Percent Affordable Developments</u>: Describes the requirements for 100 percent affordable developments pursuant to Government Code sections 65912.110-65912.114, including site eligibility requirements, affordability provisions, allowable density, applicable development standards, and additional conditions of development.

<u>Article III. Requirements for Mixed-Income Developments</u>: Describes the requirements for mixed-income developments pursuant to Government Code sections 65912.120-65912.124, including site eligibility requirements, affordability provisions, allowable density, applicable development standards, and additional conditions of development.

<u>Article IV. Streamlined, Ministerial Review Process</u>: Describes the requirements for the review process applicable to all developments proceeding under the Act and these Guidelines, divided into two sections:

1) Applications and Fees – Describes application and fee requirements.

2) Local Government Processing – Describes the streamlined, ministerial review process, including standard of review and timing provisions for processing an application.

Article V. Post-Approval Requirements: Describes the requirements applicable to the review of development projects after completion of the ministerial development review approval, including project approval expiration, subsequent permits, and modifications to an approved project.

Article VI. Parcel Exemption Requirements: Describes the requirements necessary for a local jurisdiction to exempt a parcel(s) from qualifying for the streamlined, ministerial review process, including required findings and analysis applicable to a replacement parcel(s).

Article VII. Labor Provisions: Describes the applicable labor provisions.

ARTICLE I. GENERAL PROVISIONS

Section 100. Purpose and Scope

These Guidelines clarify the terms, references, and standards set forth in the Affordable Housing and High Road Jobs Act as authorized by Government Code section 65912.102.

These Guidelines establish the terms, references, and standards for a development proponent to submit an application for the streamlined, ministerial review process pursuant to the Act provided by Government Code sections 65912.114 and 65912.124. Nothing in these Guidelines relieves a local government from the obligation to follow state law relating to the availability of the Act's streamlined, ministerial review process or any other state housing law.

These Guidelines shall remain in effect until January 1, 2033, and as of that date are repealed.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.102*.*

Section 101. Applicability

(a) The provisions of Government Code sections 65912.100-65912.140 are operative as of July 1, 2023.

(b) These Guidelines are applicable to applications submitted on or after [*guidelines publish date*], including applications submitted for modification to a development per Section 502. Subsequent updates to the Guidelines are applicable to applications submitted on or after the date adopted as shown on the cover page. Nothing in these Guidelines may be used to invalidate or require a modification to a development approved through the Act's streamlined, ministerial review process prior to the effective date.

(c) These Guidelines are applicable to counties and cities, including both general law and charter cities, and including a charter city and county.

(d) A local government may adopt an ordinance to implement the provisions of the Act and these Guidelines. An ordinance adopted to implement the Act shall not be considered a "project" under Public Resources Code, Division 13 (commencing with Section 21000).

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.101, subdivision (j); 65912.114, subdivision (r); 65912.124, subdivision (r).

Section 102. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Government Code sections 65912.100-65912.140. For terms defined in the statute, any changes to the statutory definition shall supersede the definition in these Guidelines.

(a) **"Application"** means a submission requesting the streamlined, ministerial review process for a qualifying housing development project pursuant to Government Code sections 65912.114 and 65912.124 and these Guidelines, which contain information in

section 400(a) describing the development's compliance with the criteria outlined in Articles II and III of these Guidelines.

(b) **"Area median income (AMI)"** means the median family income of a geographic area of the state, as determined annually by the Department within the state income limits: http://www.hcd.ca.gov/grants-funding/income-limits/index.shtml.

(c) **"Base units"** has the same meaning as "total units" or "total dwelling units" in the State Density Bonus Law, Government Code section 65915, subdivision (o)(9)(A). See Appendix A for the State Density Bonus Law definition of **total units**.

(d) **"Block"** means an area fully surrounded by streets, pedestrian paths, or a combination of streets and pedestrian paths that are each at least 40 feet in width.

(e) **"Campus development zone**" means the set of parcels that are contained either wholly or partially within a one-half mile radius of a "main campus" of the University of California, the California State University, or the California Community Colleges. "Main campus" is defined by Education Code section 94849 and means the institution's sole or primary teaching location.

(f) **"Commercial corridor"** means a street that is not a freeway, as defined in section 102(k) (Vehicle Code section 332), and that has a right-of-way of at least 70 and not greater than 150 feet.

(g) **"Density bonus" or "State Density Bonus Law"** has the same meaning as in Government Code section 65915.

(h) **"Development proponent"** or **"applicant"** means a developer who submits a housing development project application to a local government under the streamlined, ministerial review pursuant to the Act and these Guidelines. The developer may be the owner of the property, or a person or entity with the written authority of the owner, that submits an application for streamlined, ministerial review.

(i) **"Extremely low-income faculty or staff"** means an employee of the University of California, the California State University, or the California Community Colleges who satisfies the requirements of Health and Safety Code section 50106.

(j) **"Extremely low-income households"** has the same meaning as defined in Health and Safety Code (HSC) section 50106. See Appendix A for the HSC definition of **extremely low income households.**

(k) **"Freeway"** has the same meaning as defined in Vehicle Code section 332. See Appendix A for the Vehicle Code definition of **freeway**. A freeway does not include the portion that is an onramp or offramp that serves as a connector between the freeway and other roadways that are not freeways.

(l) **"Health care expenditures"** include contributions under Internal Revenue Code sections 501(c) or (d) or 401(a) and payments toward "medical care" as defined under Internal Revenue Code section 213(d)(1).

(m) **"Housing development project"** has the same meaning as defined in the Housing Accountability Act (HAA), Government Code section 65589.5, subdivision (h)(2)(A)-(D).

See Appendix A for the Housing Accountability Act definition of **housing development project**.

(n) **“Industrial use”** means utilities, manufacturing, transportation storage and maintenance facilities, warehousing uses, and any other use that is a source that is subject to permitting by a district (as defined in Health and Safety Code section 39025), pursuant to Health and Safety Code, Division 26 (commencing with section 39000) or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.). Industrial use does not include any of the following:

(1) Power substations or utility conveyances such as power lines, broadband wires, and pipes.

(2) A use where the only source permitted by a district is an emergency backup generator.

(3) Self-storage for the residents of a building.

(o) **“Local affordable housing requirement”** means either of the following:

(1) A local government requirement, as a condition of development of residential units, that a housing development project include a certain percentage of units affordable to, and occupied by, extremely low-, very low-, lower-, or moderate-income households as a condition of development of residential units.

(2) A local government requirement allowing a housing development project to be a use by right if the project includes a certain percentage of units affordable to, and occupied by, extremely low-, very low-, lower-, or moderate-income households as a condition of development of residential units.

(p) **“Local government”** means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(q) **“Lower-income faculty or staff”** means an employee of the University of California, the California State University, or the California Community Colleges who satisfies the requirements of Health and Safety Code section 50079.5.

(r) **“Lower-income households”** has the same meaning as defined in Health and Safety Code section 50079.5. See Appendix A for the HSC definition of **lower-income households.**

(s) **“Lower-income student”** means any of the following:

(1) A student who has a household income and asset level that does not exceed either of the following:

(A) The level for Cal Grant A or Cal Grant B award recipients as set forth in Education Code section 69432.7, subdivision (k).

(B) The level for the California College Promise Grant as set forth in Education Code section 76300, subdivision (g)(1)(B)(ii).

(2) A student who otherwise qualifies for the California College Promise Grant as set forth in Education Code section 76300, subdivision (g)(1)(B).

(3) A student who qualifies for Federal Pell Grant financial aid pursuant to United States Code, Title 20, section 1070a.

(4) A student who qualifies for an exemption from paying nonresident tuition pursuant to Education Code section 68130.5, provided that the student also meets income criteria in paragraph (1) or (2).

(5) A graduate student with income and asset levels that would qualify for one or more of the benefits in paragraphs (1) to (4), inclusive, as determined by the campus at which the student is enrolled.

(t) **"Major transit stop"** has the same meaning as defined in Public Resources Code (PRC) section 21155, subdivision (b). See Appendix A for the PRC definition of **major transit stop**.

(u) **"Minimum efficiency reporting value" (MERV")** means the measurement scale developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers used to report the effectiveness of air filters.

(v) **"Ministerial review," "ministerial review process," or "streamlined, ministerial review process"** means the process applicable to a housing development submitted for evaluation pursuant to the Act, and in compliance with the requirements for ministerial review described in Article IV of these Guidelines. Ministerial review means that the proposed housing development shall be treated as a use by right as defined in section 102(nn).

(w) **"Mixed-income development"** means a development that includes both affordable and market rate housing and meets all of the criteria in Article 3 of the Act, Government Code sections 65912.120-65912.124.

(x) **"Moderate-income households"** means households of persons and families of moderate income, as defined in Health and Safety Code section 50093. See Appendix A for the HSC definition of **moderate-income households.**

(y) **"Multifamily"** means a housing development project, as defined in Government Code section 65589.5, subdivision (h)(2), with five or more residential units for sale or for rent. This includes mixed-use projects as described in sections 202(a)(2) and 302(a)(2).

(z) **"Neighborhood plan"** means a specific plan adopted pursuant to Article 8 (commencing with Government Code section 65450) of Chapter 3, an area plan, precise plan, community plan, urban village plan, or master plan.

(aa) **"Objective zoning standard," "objective subdivision standard," "objective design review standard," and "objective planning standard"** mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or proponent and the public official before submittal. This includes only such standards as are published and adopted by ordinance or resolution by a local

jurisdiction before the submission of a development application. This also includes the development standards set forth in Government Code section 65912.123, subdivisions (c), (d), (e), and (g) applicable to mixed-income developments.

(bb) **"One hundred percent (100 percent) affordable development"** means a development that includes 100 percent of the units dedicated to lower-income households and meets all of the criteria in Article 3 of the Act, Government Code sections 65912.110-65912.114.

(cc) **"Phase I environmental assessment"** has the same meaning as in Health and Safety Code section 78090. See Appendix A for HSC definition of **phase I environmental assessment**.

(dd) **"Principally permitted use"** means a use that, as of January 1, 2023, or thereafter, may occupy more than one-third of the square footage of designated use on the site and does not require a conditional use permit, except that parking uses are considered principally permitted whether or not they require a conditional use permit.

(ee) **"Project labor agreement"** has the same meaning as set forth the Public Contract Code section 2500, subdivision (b)(1). See Appendix A for Public Contract Code definition of **project labor agreement**.

(ff) **"Public work"** means developments which meet the criteria of the Labor Code, Division 2, Part 7, Chapter 1 (commencing with section 1720).

(gg) **"Regional mall"** means a site that meets all of the following criteria on the date that a development proponent submits an application pursuant to these Guidelines:

(1) The existing or most recently permitted uses on the site include at least 250,000 square feet of retail use.

(2) At least two-thirds of the existing or most recently permitted uses on the site are retail uses.

(3) At least two of the existing or most recently permitted retail uses on the site are at least 10,000 square feet.

(hh) **"Related facilities"** means any manager's units and any and all common area spaces that are included within the physical boundaries of the housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities, and parking areas that are exclusively available to residential users, except any portions of the overall development that are specifically commercial space.

(ii) **"Site" or "project site"** means the area within the subject parcel or parcels that would be physically disturbed by construction of the development proposed pursuant to the Act and these Guidelines. Site shall not include, unless expressly stated otherwise in the development application, other contiguous or noncontiguous areas even if under the ownership or control of the project proponent.

(jj) **“Street”** has the same meaning as defined in Vehicle Code section 590, and includes sidewalks, as defined in Vehicle Code section 555. See Appendix A for the Vehicle Code definitions of **street** and **sidewalk**.

(kk) **“Subsequent permit”** means any permit required subsequent to receiving approval pursuant to the Act and these Guidelines, and includes, but is not limited to, demolition, grading, encroachment permits, building permits, approval of sign programs, tree removal permits, haul route permits, and final maps. Subsequent permit also includes any permit that meets the definition of “postentitlement phase permit” as set forth in Government Code section 65913.3. See Appendix A for the Government Code definition of **postentitlement phase permit.**

(ll) **“Tenant”** means a person who occupies land or property rented or leased for use as a residence.

(mm) **“Urban uses”** means any current or former residential, commercial, public institutional, public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, or retail use, or any combination of those uses. Urban uses also include auto repair uses, self-storage facilities, golf courses, and cemeteries.

(nn) **“Use by right”** means a development project for which both of the following are true:

(1) The development project is not subject to a conditional use permit, planned unit development permit, or any other discretionary local government approval, permit, or review process.

(2) No aspect of the development project, including any permits required for the development project, is a “project” for purposes of Public Resources Code, Division 13 (commencing with section 21000).

(oo) **“Very low-income faculty or staff”** means an employee of the University of California, the California State University, or the California Community Colleges who satisfies the requirements of Health and Safety Code section 50105.

(pp) **“Very low-income households”** has the same meaning as defined in Health and Safety Code section 50105. See Appendix A for the HSC definition of **very low-income households.**

(qq) **“Very low vehicle travel area”** has the same meaning as defined in the HAA, Government Code section 65589.5.1, subdivision (b)(6)(A). See Appendix A for the HAA definition of **very low vehicle travel area**.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.100-65912.140.

ARTICLE II. REQUIREMENTS FOR 100 PERCENT AFFORDABLE DEVELOPMENTS

Section 200. Site Eligibility Requirements

(a) The applicant for a 100 hundred percent affordable development shall demonstrate in the application that, as of the date the application is submitted, the proposed development is located on a site, as defined in section 102(ii), that meets the following criteria:

(1) The site is located in a zone where office, retail, or parking are a principally permitted use as defined in section 102(dd).

(2) The site is on a legal parcel, or parcels, located in either:

(A) A city where the city boundaries include some portion of an urban area, as designated by the United States Census Bureau, or

(B) An unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urban area, as designated by the United States Census Bureau.

(3) At least 75 percent of the perimeter of the site adjoins parcels that are or were developed with urban uses as defined in section 102(mm).

(A) Parcels that are only separated by a street, pedestrian path, or bicycle path shall be considered adjoined.

(B) If the perimeter of the site is different than the legal parcel boundaries around the site, the parcel boundaries shall be used for the purpose of determining compliance with this requirement.

(4) It is not a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use, as defined in section 102(n). For purposes of this requirement, “dedicated to industrial use” includes any of the following:

(A) The site is currently being actively used for an industrial use.

(B) The most recently permitted use on the site is an industrial use, and the site was actively used with the permitted industrial use within the past three years from the date of application submittal.

(C) The site was designated for industrial use in the latest version of the general plan land use designation adopted before January 1, 2022, and residential uses are not principally permitted within the site’s general plan land use designation.

i. For purposes of Paragraph (4), parcels only separated by a street shall be considered adjoined.

(5) The site is not located in any of the following environmentally sensitive areas identified in the Streamlined Ministerial Approval Process (SMAP), Government Code section 65913.4, subdivision (a)(6):

(A) Any of the following areas of the coastal zone:

i. Areas subject to Public Resources Code section 30603, subdivision (a)(1) or (2).

ii. Areas that are not subject to either a fully certified local coastal program or just a certified land use plan.

iii. Areas that are vulnerable to five feet of sea level rise, as determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or a local government's coastal hazards vulnerability assessment.

iv. On or within a 100-foot radius of a coastal zone wetland, as defined in Public Resources Code section 30121.

v. Prime agricultural land within the coastal zone, as defined in Public Resources Code sections 30113 and 30241.

(B) Not prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Not a wetland, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Not within a very high fire hazard severity zone, as determined by the State Fire Marshall pursuant to Government Code section 51178, or within the state responsibility area, as defined in Public Resources Code section 4102. This restriction does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions:

i. Public Resources Code section 4291 or section 51182, as applicable.

ii. Public Resources Code section 4290.

iii. Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).

iv. Notwithstanding subsection (a)(5)(I)(i)-(iii) above, a vacant site that is located within a designated very high fire hazard severity zone is not

eligible to be developed under the Act, as described in subsection (a)(9)(B).

(E) Not a hazardous waste site that is listed pursuant to Government Code section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356, unless either of the following apply:

i. The site is an underground storage tank site that received a uniform closure letter issued pursuant to Health and Safety Code section 25296.10, subdivision (g) based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Government Code section 65962.5.

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

(F) Not within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with section 8875) of Division 1 of Title 2.

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

i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the local jurisdiction.

ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with section 59.1) and Part 60 (commencing with section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Not within a regulatory floodway as determined by FEMA in any official maps published by FEMA, unless the development has received a no-rise certification in accordance with section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Not on lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Not a habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with section 1900) of Division 2 of the Fish and Game Code).

(K) Not on lands under conservation easement.

(6) The development is not located on a site that would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(7) The site is not an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with section 18860) of Division 13 of the Health and Safety Code).

(8) For a site within a neighborhood plan area as defined in section 102(z), the neighborhood plan applicable to the site permits multifamily housing development. For purposes of this subparagraph, “permits” includes principally permitted or conditionally permitted.

(A) This paragraph shall only apply if the neighborhood plan was adopted by a local government before January 1, 2024, and within 25 years of the date that a development proponent submits an application. For example, if the application is submitted on July 1, 2025, the neighborhood plan area would need to have been adopted between July 1, 2000 and December 31, 2023.

(B) A neighborhood plan does not include a community plan where the cumulative area covered by the community plan is more than one-half of the area of the jurisdiction.

(9) If the site is vacant, the site meets the following requirements:

(A) Does not contain tribal cultural resources, as defined by Public Resources Code section 21074, that could be affected by the development that were found pursuant to tribal consultation as described by Public Resources Code section 21080.3.1, and the effects of which cannot be mitigated pursuant to the process described in Public Resources Code section 21080.3.2. See Appendix B for the referenced Public Resources Code provisions related to tribal consultation.

(B) Is not within a very high fire hazard severity zone, as indicated on maps adopted by the State Fire Marshall pursuant to Public Resources Code section 4202 or as designated pursuant to Government Code section 51179, subdivisions (a) and (b).

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.111, subdivisions (a)-(h).

Section 201. Affordability Requirements

(a) New housing units created by a 100 percent affordable development shall be subject to a requirement mandating that 100 percent of the units within the development, excluding managers' units, shall be dedicated to lower-income households as defined in section 102(r). 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. If the site contains existing housing units which will remain once the new development is completed, those existing housing unit(s) are not subject to the affordability requirement specified in this subsection.

(b) Affordability of units to households at or below 80 percent of the AMI pursuant to this section is calculated based on the following:

(1) For owner-occupied units, affordable housing cost is calculated pursuant to Health and Safety Code section 50052.5.

(2) For rental units, affordable rent is set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.

(c) Units used to satisfy the affordability requirements pursuant to this section may be used to satisfy the requirements of other local or state requirements for affordable housing, including local ordinances or the State Density Bonus Law, provided that the development proponent complies with the applicable requirements in the other state or local laws, except as provided in Paragraph (1) below. Similarly, units used to satisfy other local or state requirements for affordable housing may be used to satisfy the affordability requirements of this section provided that the development proponent complies with all applicable requirements of this section.

(1) If the local government has a local affordable housing requirement that requires affordable units above the lower-income level, the development proponent shall not be required to provide those units provided that the project complies with subsection (b) above.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.112, subdivisions (a), (b).

Section 202. Development Requirements: Housing Type, Density, and Objective Standards

To qualify for approval as a 100 percent affordable development under the Act's streamlined, ministerial review process pursuant to Article IV, the housing development shall meet all of the following criteria:

(a) Housing Type*:* The development is a multifamily housing development project as defined in sections 102(m) and 102(y). The development must include at least five residential dwelling units.

(1) For purposes of establishing the total number of units in a development, a development project includes units contained in both of the following:

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

(B) All projects developed on sites adjacent to a site developed pursuant to the Act if, after January 1, 2022, the adjacent site had been subdivided from the site developed pursuant to the Act.

(2) As specified in section 102(m) and the HAA, Government Code section 65589.5, subdivision (h)(2), a mixed-use development qualifies as a housing development project when at least two-thirds of the square footage of the development is designated for residential use. A mixed-use development shall also satisfy the following requirements:

(A) The two-thirds calculation for mixed-use developments is based upon the proportion of gross square footage of residential space and related facilities, as defined in section 102(hh), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to the intended use.

(B) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the State Density Bonus Law shall be included in the square footage calculation.

(C) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages. However, any above-ground parking within a structure is calculated as area proportional to the intended use (e.g., commercial or residential). For example, if an above-ground parking area is exclusively available to residential users, then the entire parking area is counted toward residential

square footage. Conversely, if the entire above-ground parking area is available only for commercial uses, then the entire parking area is counted toward commercial square footage.

(D) If the project includes existing square footage to be converted as part of the new development, the project shall meet one of the required conditions for mixed-use developments pursuant to the HAA, Government Code section 65589.5, subdivision (h)(2)(B). See Appendix A for the referenced Government Code section.

(b) Applicable density – required density for 100 percent affordable developments

(1) For purposes of the local government's determination of consistency pursuant to section 401(b)(1) and (2), a 100 percent affordable development is consistent with the minimum required density standard if the development meets or exceeds the applicable density deemed appropriate to accommodate housing for lower-income households in the jurisdiction pursuant to the Housing Element Law "default" density standards as set forth in Government Code section 65583.2, subdivision (c)(3), summarized in the table below.

(A) The minimum required density described in subsection (b)(1) above is calculated based on the overall density of the development, inclusive of any bonus units pursuant to State Density Bonus Law or any local bonus programs, and any preexisting units on the site.

(B) A development proposed pursuant to Article II is not subject to any specified maximum density. However, the development is subject to the applicable local development standards as specified in subsection (c).

Housing Element Default Densities	
Government Code section 65583.2, subdivision (c)(3)(B) of Housing Element Law sets forth “default” density standards that are “deemed appropriate to accommodate housing for lower income households.” The default density standards are an option for local governments to use for the purpose of identifying sites to accommodate the local government’s share of its Regional Housing Needs Allocation (RHNA). These “default” densities are incorporated into the Act for purposes of establishing the minimum required density for a 100 percent affordable development. Default densities vary based on the type of jurisdiction and are established using census population figures and based on methodology detailed in Government Code section 65583.2.	
Jurisdiction Type	Applicable Default Density Standard
Incorporated cities within non-metropolitan/rural counties and non-metropolitan counties with micropolitan areas	At least 15 dwelling units per acre
Unincorporated areas in all non-metropolitan counties	At least 10 dwelling units per acre
Suburban jurisdictions	At least 20 dwelling units per acre
Metropolitan jurisdictions	At least 30 dwelling units per acre

(c) Local applicable objective planning standards

(1) A 100 percent affordable development is subject to the local government's applicable objective planning standards as described in Paragraph (2) below.

(2) For purposes of determining a development’s consistency with applicable objective planning standards pursuant to section 401(b), the development project is subject to the objective planning standards from whichever zoning designation below allows the highest density residential use:

(A) The zoning designation for the project site if the site’s zoning or general plan land use designation allows multifamily residential use.

(B) The zoning designation for the geographically closest parcel that allows residential use at a density proposed by the project. If no zone exists that allows the residential density proposed by the project, the applicable objective standards shall be those for the zone that allows the greatest density within the city, county, or city and county.

i. For purposes of this subparagraph, the density proposed by the project is based upon a calculation of base units as defined in Section 102(c).

Scenarios for determining applicable objective standards for 100 hundred percent affordable developments	
Scenario	Applicable standards
The existing zoning or general plan land use designation for the project site does not allow multifamily residential use (does not have a residential density).	Standards are derived from the parcel closest to the project site with a zoning or general plan land use designation that allows residential at the density proposed by the project.
The existing zoning or general plan land use designation for the project site allows residential use, but at a lower density than the density proposed by the project.	Standards are derived from the parcel closest to the project site with a zoning or general plan land use designation that allows residential at the density proposed by the project.
The existing zoning or general plan land use designation for the project site allows residential use at the same density as the density proposed by the project.	Standards are derived from the zoning of the project site.
The existing zoning or general plan land use designation for the project site allows a higher density than the density proposed by the project.	Standards are derived from the zoning of the project site.

(3) In the event that any applicable objective planning standards (as defined in section 102(aa)) pursuant to paragraph (2) are mutually inconsistent, a development shall be deemed consistent with the objective planning standard(s) in question if the development is consistent with the standards set forth in the applicable zone's corresponding general plan land use designation, where specified.

(4) A development proposed pursuant to Article II shall be eligible for a density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios pursuant to State Density Bonus Law.

(5) For any project that is the conversion of the use of an existing nonresidential use building to residential use, the local government shall not require the provision of common open space beyond what is already existing on the project site.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.101, subdivisions (g), (o); 65912.103; 65912.113, subdivisions (a), (b), (e), (f), (g)(2); 65912.114, subdivision (f)(1); 65589.5, subdivision (h)(2); 65585.2, subdivision (c)(3)(B).

Section 203. Additional Conditions of Development

(a) If any portion of the project site is within 3,200 feet of a facility that actively extracts or refines oil or natural gas, none of the housing on the site can be located within 3,200 feet of the facility that actively extracts or refines oil or natural gas.

(b) For any housing on a site located within 500 feet of a freeway, as defined in section 102(k), all of the following requirements shall apply:

(1) The building(s) shall have centralized heating, ventilation, and air-conditioning system.

(2) The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.

(3) The building(s) shall provide air filtration media for outside and return air that provides a minimum efficiency reporting value (MERV) of 16.

(4) The air filtration media shall be replaced at the manufacturer's designated interval.

(5) The building(s) shall not have any balconies facing the freeway.

(c) Replacement housing requirements

(1) The local government shall ensure that any development approved pursuant to the Act and these Guidelines satisfies the requirements concerning the demolition and replacement of housing units specified in Article 2 of Chapter 12, commencing with Government Code section 66300.5.

(A) This requirement applies whether the development is within or not within an affected city or county as defined in Government Code section 66300.5(a).

(d) The local government shall, as a condition of approval of the development, require the development proponent to complete a phase I environmental assessment, as defined in section 102(cc).

(1) If a recognized environmental condition is found, the development proponent shall undertake a preliminary endangerment assessment, as defined in section 78095 of the Health and Safety Code, prepared by an environmental assessor, to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(2) If a release of a hazardous substance is found to exist on the site, before the local government issues a certificate of occupancy, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(3) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, before the local government issues a certificate of occupancy, the effects of the potential exposure shall be mitigated to a level of

insignificance in compliance with current state and federal requirements.

(e) If the development includes a commercial component that is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.113, subdivisions (c), (d); 65912.114, subdivision (h); 65912.114, subdivision (k).

ARTICLE III. REQUIREMENTS FOR MIXED-INCOME DEVELOPMENTS

Section 300. Site Eligibility Requirements

(a) The applicant for a mixed-income development shall demonstrate in the application that, as of the date the application is submitted, the proposed development is located on a site, as defined in section 102(ii), that meets the following criteria:

(1) The site is located in a zone where office, retail, or parking are a principally permitted use as defined in section 102(dd).

(2) The site is on a legal parcel, or parcels, located in either:

(A) A city where the city boundaries include some portion of an urban area, as designated by the United States Census Bureau, or

(B) An unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urban area, as designated by the United States Census Bureau.

(3) At least 75 percent of the perimeter of the site adjoins parcels that are or were developed with urban uses as defined in section 102(mm).

(A) Parcels that are only separated by a street, pedestrian path, or bicycle path shall be considered adjoined.

(B) If the perimeter of the site is different than the legal parcel boundaries around the site, the parcel boundaries shall be used for the purpose of determining compliance with this requirement.

(4) It is not a site or adjoined to any site where more than one-third of the square footage of the site is dedicated to industrial use, as defined in section 102(n). For purposes of this requirement, “dedicated to industrial use” includes any of the following:

(A) The site is currently being actively used for an industrial use.

(B) The most recently permitted use on the site is an industrial use, and the site was actively used with the permitted industrial use within the past three years from the date of application submittal.

(C) The site was designated for industrial use in the latest version of the general

plan land use designation adopted before January 1, 2022, and residential uses are not principally permitted within the site's applicable general plan land use designation.

i. For purposes of Paragraph (4), parcels only separated by a street shall be considered adjoined.

(5) The project site meets either of the criteria in paragraph (A) or (B) below:

(A) The site abuts a commercial corridor with a right-of-way of at least 70 feet and not greater than 150 feet, as described in section 102(f), and has a frontage along the commercial corridor of a minimum of 50 feet.

i. For the purpose of this requirement, where the right-of-way has a varying width, if any portion of the right-of-way fronting the project site is at least 70 feet wide and not greater than 150 feet wide, then the site shall be eligible.

(B) The site is located within a campus development zone, as defined in section 102(e).

(6) The site is not greater than 20 gross acres.

(A) If the site is a regional mall as defined in section 102(gg), the site is not greater than 100 gross acres.

(B) The calculation of gross acres shall include all portions of the parcel(s), including any easements.

(7) The site is not located in any of the following environmentally sensitive areas identified in the Streamlined Ministerial Approval Process (SMAP), Government Code section 65913.4, subdivision (a)(6):

(A) Any of the following areas of the coastal zone:

i. Areas subject to Public Resources Code section 30603, subdivision (a)(1) or (2).

ii. Areas that are not subject to a fully certified local coastal program or just a certified land use plan.

iii. Areas that are vulnerable to five feet of sea level rise, as determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or a local government's coastal hazards vulnerability assessment.

iv. On or within a 100-foot radius of a coastal zone wetland, as defined in Public Resources Code section 30121.

v. On prime agricultural land within the coastal zone, as defined in Public Resources Code sections 30113 and 30241.

(B) Not prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Not a wetland, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Not within a very high fire hazard severity zone, as determined by the State Fire Marshall pursuant to Government Code section 51178, or within the state responsibility area, as defined in Public Resources Code section 4102. This restriction does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions:

i. Public Resources Code section 4291 or Government Code section 51182, as applicable.

ii. Public Resources Code section 4290.

iii. Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).

iv. Notwithstanding subsection (a)(7)(G)(i)-(iii) above, a vacant site that is located within a designated very high fire hazard severity zone is not eligible to be developed under the Act, as described in subsection (a)(12)(B).

(E) Not a hazardous waste site that is listed pursuant to Government Code section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356, unless either of the following apply:

i. The site is an underground storage tank site that received a uniform closure letter issued pursuant to Health and Safety Code section 25296.10, subdivision (g) based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This paragraph does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Government Code section 65962.5.

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

(F) Not within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with section 8875) of Division 1 of Title 2.

(G) Not within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by FEMA in any official maps published by FEMA. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to the site. A development may be located on a site described in this subparagraph if either of the following are met:

i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the local jurisdiction.

ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with section 59.1) and Part 60 (commencing with section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Not within a regulatory floodway as determined by FEMA in any official maps published by FEMA, unless the development has received a no-rise certification in accordance with section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Not on lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Not habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5

(commencing with section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with section 1900) of Division 2 of the Fish and Game Code).

(K) Not on lands under conservation easement.

(8) The development is not located on a site that would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(9) The site satisfies the following requirements related to protections for existing housing and tenants:

(A) The site is not an existing parcel of land or site that is governed under the Mobilehome Residency Law (Civil Code Division 2, Part 2, Title 2, Chapter 2.5, commencing with section 798), the Recreational Vehicle Park Occupancy Law (Civil Code Division 2, Part 2, Title 2, Chapter 2.6, commencing with section 799.20), the Mobilehome Parks Act (Health and Safety Code Division 13, Part 2.1, commencing with section 18200), or the Special Occupancy Parks Act (Health and Safety Code, Division 13, Part 2.3, commencing with section 18860).

(B) The development would not require the demolition of any of the following types of housing:

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

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

iii. Housing that has been occupied by tenants, as defined in section 102(ll), within the past 10 years, excluding any manager's units.

(C) The site was not previously used for permanent housing that was occupied by tenants, excluding any manager's units, that was demolished within 10 years before the development proponent submits an application pursuant to the Act and these Guidelines.

(D) The site does not contain one to four dwelling units.

(E) If the site is vacant, it is not zoned for single family residential use.

(10) For a site within a neighborhood plan area as defined in section 102(z), the neighborhood plan designation applicable to the site permits multifamily housing development. For purposes of this subparagraph, "permits" includes principally permitted or conditionally permitted.

(A) This paragraph shall only apply if the neighborhood plan was adopted by a local government before January 1, 2024, and within 25 years of the date that a development proponent submits an application. For example, if the application is submitted on July 1, 2025, the neighborhood plan area would

need to have been adopted between July 1, 2000 and December 31, 2023.

(B) A neighborhood plan does not include a community plan where the cumulative area covered by the community plan is more than one-half of the area of the jurisdiction.

(11) If the site is vacant, the site meets the following requirements:

(A) Does not contain tribal cultural resources, as defined by Public Resources Code section 21074, that could be affected by the development that were found pursuant to a consultation as described by Public Resources Code section 21080.3.1 and the effects of which cannot be mitigated pursuant to the process described in Public Resources Code section 21080.3.2. See Appendix B for the referenced Public Resources Code provisions.

(B) Is not within a very high fire hazard severity zone, as indicated on maps adopted by the State Fire Marshall pursuant to Public Resources Code section 4202 or as designated pursuant to Government Code section 51179(a) and (b).

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.121, subdivisions (a)-(j).

Section 301. Affordability Requirements

(a) New housing units created by a mixed-income development, as defined in section 102(w), shall meet all of the following affordability criteria:

(1) A rental housing development shall include either of the following:

(A) 8 percent of the base units for very low-income households, as defined in section 102(pp), and 5 percent of the base units for extremely low-income households as defined in section 102(j), or

(B) 15 percent of the base units for lower income households, as defined in section 102(r).

(2) In lieu of complying with either subsection (1)(A) or (1)(B) above, a rental housing development that is located within a campus development zone may satisfy the affordability requirement by providing either of the following:

(A) 8 percent of the base units either for very low-income faculty or staff, as defined in section 102(oo), or for students experiencing homelessness, and 5 percent of the base units either for extremely low-income faculty or staff, as defined in section 102(i), or for students experiencing homelessness, or

(B) 15 percent of the base units for lower-income faculty or staff, as defined in section, 102(q), or lower income students, as defined in section 102(s).

(C) For purposes of satisfying subsection (2)(A) above, a person's status as homeless may be verified by a homeless services provider, as defined in

Health and Safety Code section 103577, subdivision (e)(3), or institution of higher education that has knowledge of a person's homelessness status.

(3) An owner-occupied development shall include either of the following:

(A) 30 percent of the base units must be offered to moderate income households at an affordable housing cost, as defined in Healthy and Safety Code section 50052.5, or

(B) 15 percent of the base units must be offered to lower income households at an affordable housing cost, as defined in Healthy and Safety Code section 50052.5.

(4) In lieu of complying with either subsection (3)(A) or (3)(B) above, an owner-occupied development that is located within a campus development zone may satisfy the affordability requirement by providing 15 percent of the base units at an affordable housing cost to lower-income students or lower-income faculty or staff.

(A) The eligibility of a student to occupy a unit for lower-income students shall be verified by an affidavit, award letter, or letter of eligibility demonstrating that the student is eligible for financial aid, including an institutional grant or fee waiver, provided by the institution of higher education in which the student is enrolled, by the Student Aid Commission, or by the federal government.

(5) The development proponent shall agree to, and the local government shall ensure, the continued affordability of all affordable rental units through a recorded affordability deed restriction for a period of 55 years at an affordable rent, as defined in Health and Safety Code section 50053, and a recorded affordability deed restriction for all affordable ownership units for a period of 45 years.

(6) *Compliance with local affordable housing requirements:* If the local government has a local affordable housing requirement as defined in section 102(o), and subparagraph (B) below does not apply, then the applicable affordability requirement for the project shall be established through a combination of the local affordable housing requirement and the affordability requirement of the Act, as follows:

(A) The development project shall include the percentage of affordable units required by the Act or the local requirement, whichever is higher, and shall meet the affordability level(s) of the local affordable housing requirement if it includes deeper affordability level(s) than required by the Act. Compliance with this requirement includes the following:

i. The total percentage of affordable units in the development shall be equal to the higher of the total amount required by the Act or the local affordable housing requirement. This does not include any increase in the percentage resulting from the rounding required pursuant to subparagraph (C) below.

ii. Where there is more than one level of affordability, the percentage comparison required pursuant to this subparagraph shall be made at

each affordability level, starting with the deepest affordability level required, until the total percentage required by clause (i) above is satisfied.

Sample scenario to implement section 301(a)(5)(A)
Hypothetical local affordable housing requirement: • 8 percent very low-income • 5 percent low-income • 5 percent moderate-income • 18 percent total affordable units required *Affordability requirement from the Act (one of four options available)* • 5 percent extremely low-income • 8 percent very low-income • 13 percent total affordable units required *Result*: In this scenario, the overall percentage of affordability required for the development would be 18 percent. Of that total, 5 percent must be dedicated for extremely low-income households, 8 percent for very low-income households, and 5 percent for low-income households.

(B) *Rental developments only:* If the local affordable housing requirement requires greater than 15 percent of the units to be dedicated for lower income households and does not require the inclusion of units affordable to both very low and extremely low-income households, then the rental housing development shall comply with both of the following affordability requirements:

i. Include 8 percent of the units for very low-income households and 5 percent of the units for extremely low-income households.

ii. Fifteen percent of units affordable to lower income households shall be subtracted from the percentage of units required by the local policy starting at the highest required affordability level. This means that if the local affordable housing requirement mandates more than one affordability level, the development proponent shall subtract 15 percent from the total percent required locally and provide the remaining percentage at the deepest affordability level required locally, in addition to providing the affordable units pursuant to subparagraph (C)(i) above.

Sample scenario to implement section 301(a)(5)(B)
Hypothetical local affordable housing requirement: • 10 percent very low-income • 10 percent low-income • 20 percent total affordable units required *Affordability requirement from the Act* • 5 percent extremely low-income • 8 percent very low-income • 13 percent total affordable units required *Result*: In this scenario, the development would be required to include 5 percent of the units for extremely low-income households and 8 percent for low-income households, as described in subsection (a)(5)(B)(i). In addition, the development would need to include the remaining balance of 15 percent subtracted from the 20 percent total required locally, starting at the highest affordability level (in this example, low income), leaving an additional 5 percent very low-income units to provide, as described in subsection (a)(5)(B)(ii).

(C) Any affordability calculations required by paragraphs (A) through (B) above resulting in fraction units shall be separately rounded up to the next whole number, consistent with the rounding provisions as set forth in Government Code section 65915, subdivision (q) of the State Density Bonus Law.

(b) Affordable units in the development shall have the same bedroom and bathroom count ratio as the market rate units, be equitably distributed within the project, and have the same type or quality of appliances, fixtures, and finishes.

(c) Units used to satisfy the affordability requirements pursuant to sections 301(a)(1)-(3) may be used to satisfy the requirements of other local or state requirements for affordable housing, including local ordinances or the State Density Bonus Law, provided that the development proponent complies with the applicable requirements in the other state or local laws. Similarly, units used to satisfy other local or state requirements for affordable housing may be used to satisfy the affordability requirements of this section provided that the development proponent complies with all applicable requirements of this section.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.122, subdivisions (a)-(d).

Section 302. Development Requirements: Housing Type, Density, and Objective Standards

To qualify for approval as a mixed-income development under the Act, the development proponent shall meet all of the following development criteria:

(a) Housing Type: The development is a multifamily housing development project as defined in section 102(m) and section 102(y). The development must include at least five residential dwelling units.

(1) For purposes of establishing the total number of units in a development, a development project includes units contained in both of the following:

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

(B) All projects developed on sites adjacent to a site developed pursuant to this chapter if, after January 1, 2022, the adjacent site had been subdivided from the site developed pursuant to the Act.

(2) As specified in section 102(m) and the Housing Accountability Act, Government Code section 65589.5, subdivision (h)(2), a housing development project includes mixed-use developments when at least two-thirds of the square footage of the development is designated for residential use. A mixed-use development shall also satisfy the following requirements:

(A) The two-thirds calculation for mixed-use developments is based upon the proportion of gross square footage of residential space and related facilities, as defined in section 102(hh), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to the intended use.

(B) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the State Density Bonus Law shall be included in the square footage calculation.

(C) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages. However, any above-ground parking within a structure is calculated as area proportional to the intended use (e.g., commercial or residential). For example, if an above-ground parking area is exclusively available to residential users, then the entire area is counted toward residential square footage. Conversely, if the entire above-ground parking area is available only for commercial uses, then the entire parking area is counted toward commercial square footage.

(D) If the project includes existing square footage to be converted as part of the new development, the project shall meet one of the required conditions for mixed-use developments pursuant to the Housing Accountability Act, Government Code section 65589.5, subdivision (h)(2)(B). See Appendix A for the referenced Government Code section.

(b) Allowable density

(1) For the purposes of determining consistency pursuant to section 401(b)(1), a development project, prior to the award of any eligible density bonus pursuant to

the State Density Bonus Law, is permitted to be developed up to the allowable density as follows:

(A) For a metropolitan jurisdiction as determined pursuant to Government Code section 65583.2, subdivisions (d) and (e) of Housing Element Law, the maximum residential density allowed for the development shall be the greater of the following:

i. The maximum allowable residential density or base density as defined in the State Density Bonus Law, Government Code section 65915, subdivision (o)(6), allowed on the site by the local government.

ii. For sites within a very low vehicle travel area as defined in section 102(qq), within one-half mile of a major transit stop, or within a campus development zone, 80 units per acre.

iii. For sites less than one acre in size that are not within a very low vehicle travel area or within one-half mile of a major transit stop, 30 units per acre.

iv. For sites one acre in size or greater located on a commercial corridor of less than 100 feet in width, and that are not within a very low vehicle travel area or within one-half mile of a major transit stop, 40 units per acre.

v. For sites one acre in size or greater located on a commercial corridor of 100 feet in width or greater, and that are not within a very low vehicle travel area or within one-half mile of a major transit stop, 60 units per acre.

(B) For a non-metropolitan jurisdiction as determined pursuant to Government Code section 65583.2, subdivisions (d) and (e) of Housing Element Law, the maximum residential density allowed for the development shall be the greater of the following:

i. The maximum allowable residential density or base density as defined in the State Density Bonus Law, Government Code section 65915, subdivision (o)(6), allowed on the site by the local government.

ii. For sites within a very low vehicle travel area, within one-half mile of a major transit stop, or within a campus development zone, 70 units per acre.

iii. For sites less than one acre in size that are not within a very low vehicle travel area or within one-half mile of a major transit stop, 20 units per acre.

iv. For sites one acre in size or greater located on a commercial corridor of less than 100 feet in width, and that are not within a very low vehicle travel area or within one-half mile of a major transit stop, 30 units per acre.

v. For sites one acre in size or greater located on a commercial corridor of 100 feet in width or greater, and that are not within a very low vehicle travel area or within one-half mile of a major transit stop, 50 units per acre.

(2) Notwithstanding paragraph (1) above, a builder's remedy project pursuant to Government Code section 65589.5, subdivision (h)(11), shall be deemed to be in compliance with the residential density standards for the purposes of complying with the residential density standards contained in paragraph (1).

(3) For purposes of determining a project's base density pursuant to State Density Bonus Law, the maximum allowable residential density means the allowable density as determined pursuant to section 302(b)(1).

Summary of Allowable Density Based on Site Characteristics				
Location	**Site Size**	**Width of Commercial Corridor**	**Allowable Density – Metropolitan Jurisdiction**	**Allowable Density – Non-Metropolitan jurisdiction**
Within a very low vehicle travel area or within one-half mile of a major transit stop or within a campus development zone	--	--	The higher of 80 units/acre or the maximum allowable residential density allowed on the site locally	The higher of 70 units/acre or the maximum allowable residential density allowed on the site locally
Not within a very low vehicle travel area or one-half mile of a major transit stop	Less than one acre	--	The higher of 30 units/acre or the maximum allowable residential density allowed on the site locally	The higher of 20 units/acre or the maximum allowable residential density allowed on the site locally
Not within a very low vehicle travel area or one-half mile of a major transit stop	One acre or greater	Less than 100 feet	The higher of 40 units/acre or the maximum allowable residential density allowed on the site locally	The higher of 30 units/acre or the maximum allowable residential density allowed on the site locally
Not within a very low vehicle travel area or one-half mile of a major transit stop	One acre or greater	Greater than 100 feet	The higher of 60 units/acre or the maximum allowable residential density allowed on the site locally	The higher of 50 units/acre or the maximum allowable residential density allowed on the site locally

(c) Minimum density

(1) For the purpose of determining consistency pursuant to section 401(b), the development project shall be required to meet the minimum density standard as follows:

(A) For a housing development project application that has been determined to be consistent with objective planning standards before January 1, 2027:

i. The development shall be developed at a density of 50 percent or greater of the applicable allowable residential density pursuant to section 302(b)(1)(A)(ii)-(v) for metropolitan jurisdictions, or section 302(b)(1)(B)(ii)-(v) for non-metropolitan jurisdictions (summarized in the table above).

ii. For a site within one-half mile of an existing passenger rail or bus rapid transit station, the development project shall be developed at a density of 75 percent or greater of the applicable allowable residential density pursuant to section 302(b)(1)(A)(ii)-(v) for metropolitan jurisdictions, or section 302(b)(1)(B)(ii)-(v) for non-metropolitan jurisdictions.

iii. For a site within a campus development zone, 53 dwelling units per acre (i.e., 75 percent or greater of 70 dwelling units per acre).

(B) For a housing development project application that has been determined to be consistent with objective planning standards on or after January 1, 2027:

i. The development shall be developed at a density that is 75 percent or greater of the applicable allowable residential density pursuant to section 302(b)(1)(A)(ii)-(v) for metropolitan jurisdictions, or section 302(b)(1)(B)(ii)-(v) for non-metropolitan jurisdictions.

(d) Density for conversion of existing buildings into residential use

(1) Notwithstanding subsections (b) and (c) above, a mixed-income development shall not be subject to any density limitation if it is a conversion of an existing non-residential building(s) into residential use.

(A) Subparagraph (1) does not apply if the development includes additional new square footage that is more than 20 percent of the overall square footage of the project, in which case the project is subject to the density limitations described in subsections (b) and (c) above.

(e) Objective development standards mandated by state law

(1) *Height*: The height limit applicable to the development shall be the greater of the following:

(A) The height allowed on the site by the local government.

(B) For sites on a commercial corridor of less than 100 feet in width, 35 feet.

(C) For sites on a commercial corridor of 100 feet in width or greater, 45 feet.

(D) For sites that are within one-half mile of a major transit stop, within a city with a population of greater than 100,000, and not within a coastal zone as defined in Public Resources Code, Division 20 (commencing with section 30000), 65 feet.

(E) For sites in a campus development zone:

i. If not located in a metropolitan jurisdiction, 45 feet.

ii. If located in a metropolitan jurisdiction, 65 feet.

Applicable Height Standards		
Location	**Width of Commercial Corridor**	**Height Limit**
Within one-half mile of a major transit stop and within a city with a population of greater than 100,000 and not within a coastal zone	--	The higher of the height allowed on the parcel by the local government or 65 feet
--	Less than 100 feet	The higher of the height allowed on the parcel by the local government or 35 feet
--	Greater than 100 feet	The higher of the height allowed on the parcel by the local government or 45 feet
Within a campus development zone, not within a metropolitan jurisdiction		The higher of the height allowed on the parcel by the local government or 45 feet
Within a campus development zone, within a metropolitan jurisdiction		The higher of the height allowed on the parcel by the local government or 65 feet

(2) *Front setback standards:* For the portion of the site that fronts a commercial corridor, the following development standards apply:

(A) No minimum building setbacks shall be required.

(B) All above-ground parking must be set back at least 25 feet.

(C) On the ground floor, the building(s) must abut within 10 feet of the street for at least 80 percent of the frontage. This means that the building(s) cannot exceed a 10-foot setback for at least 80 percent of the building's street frontage.

(3) *Side setback standards*: For the portion of the site that abuts an adjoining property that also abuts the same commercial corridor as the project site, the following development standards apply:

(A) *Adjoining property contains a residential use:* If the adjoining property contains a residential use that was constructed prior to the enactment of the Act (September 28, 2022), the ground floor setback and upper-story stepback requirements described in paragraphs (4)(A) and (4)(B) below shall apply.

(B) *Adjoining property does not contain a residential use:* No setbacks are required to be provided.

(4) *Rear setback standards*: For the side of the project site that does not abut, lie within, or have frontage along a commercial corridor, and does not abut an adjoining property that abuts the same commercial corridor as the project site, the following setback and stepback requirements shall apply:

(A) If the rear property line for the project site abuts a property that contains a residential use, the ground floor of the building(s) shall be subject to a minimum 10-foot setback. The amount required to be set back may be decreased by the local government.

(B) If the rear property line for the project site abuts a property that contains a residential use, starting with the second floor of the building(s), each subsequent floor of the development project shall be stepped back in an amount equal to at least seven feet multiplied by the floor number. For purposes of this requirement, the ground floor counts as the first floor. The amount required to be stepped back may be decreased by the local government.

(C) Along rear property lines that abut a property that does not contain a residential use, the building(s) shall be subject to a minimum 15-foot setback. The amount required to be set back may be decreased by the local government.

(5) No parking shall be required, including replacement parking, except that this provision shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities

that would have otherwise applied to the development if this provision did not apply.

(6) For any project that is the conversion of an existing building for nonresidential use building to residential use, the local government shall not require the provision of common open space beyond what is required for the existing project site.

(7) For a development project at a regional mall as defined in section 102(gg), all of the following additional requirements apply:

(A) The average size of a block, as defined in section 102(d), shall not exceed 3 acres.

(B) At least 5 percent of the site shall be dedicated to open space.

(C) For the portion of the property that fronts a street that is newly created by the project and is not a commercial corridor, a building shall abut within 10 feet of the street for at least 60 percent of the frontage.

(8) A development proponent may use incentives, concessions, and waivers or reductions of development standards allotted pursuant to State Density Bonus Law, Government Code section 65915, subdivisions (d) and (e), to deviate from the objective standards contained in paragraphs (1) regarding height limits, (3) regarding side setbacks and stepbacks, and (4) regarding rear setbacks and stepbacks.

(f) Local objective planning standards

(1) Objective zoning standards, objective subdivision standards, and objective design standards not specified in section 302(e) shall apply as follows:

(A) For purposes of determining a development's consistency with applicable objective standards pursuant to section 401(b)(1) and (2), the applicable objective standards for a mixed-income development shall be those for the closest zone in the jurisdiction that allows multifamily residential use at the residential density proposed by the project. If no zone exists that allows the residential density proposed by the project, the applicable objective standards shall be those for the zone that allows the greatest density within the city, county, or city and county.

i. For purposes of this subparagraph, the density proposed by the project is based upon a calculation of the base units as defined in Section 102(c).

(2) The applicable objective standards may include a requirement that up to one-half of the ground floor of the development be dedicated to retail use.

(A) If the local development standards applicable to the project pursuant to paragraph (1) above would otherwise require that greater than 50 percent of the ground floor be dedicated to retail use, the local government may not require that more than 50 percent of the ground floor be dedicated to retail use.

(B) If the applicable local development standards require less than 50 percent of the ground floor be dedicated to retail use, the development must include the required amount of retail use on the ground floor.

(3) A development proposed pursuant to Article III shall be eligible for a density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios pursuant to State Density Bonus Law, except that the development shall not be eligible for a concession or waiver to reduce an applicable local government requirement for the provision of ground floor retail that is consistent with the allowance contained in subsection (2) above.

(4) The applicable objective standards shall not preclude a development from being built at the residential densities in sections 302(b) and (c) and shall not require the development to reduce unit size to meet the objective standards.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.103; 65912.123, subdivisions (b)-(e), (g), (i), (j); 65912.124, subdivision (f); 65589.5, subdivision (h)(2); 65589.5, subdivision (f)(6)(F)(i).

Section 303. Additional Conditions of Development

(a) If any portion of the project site is within 3,200 feet of a facility that actively extracts or refines oil or natural gas, none of the housing on the site can be located within 3,200 feet of the facility that actively extracts or refines oil or natural gas.

(b) For any housing on the site located within 500 feet of a freeway, all of the following shall apply:

(1) The building(s) shall have a centralized heating, ventilation, and air-conditioning system.

(2) The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.

(3) The building(s) shall provide air filtration media for outside and return air that provides a minimum efficiency reporting value (MERV) of 16.

(4) The air filtration media shall be replaced at the manufacturer’s designated interval.

(5) The building(s) shall not have any balconies facing the freeway.

(c) Replacement housing requirements

(1) The local government shall ensure that a development approved pursuant to the Act and these Guidelines satisfies the requirements concerning the demolition and replacement of housing units specified in Article 2 of Chapter 12, commencing with Government Code section 66300.5.

(A) This requirement applies whether the development is within or not within an affected city or within or not within an affected county as defined in Government Code section 66300.5, subdivision (a).

(d) The local government shall, as a condition of approval of the development, require the development proponent to complete a phase I environmental assessment, as defined in section 102(cc).

(1) If a recognized environmental condition is found, the development proponent shall undertake a preliminary endangerment assessment, as defined in Health and Safety Code section 78095, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(2) If a release of a hazardous substance is found to exist on the site, before the local government issues a certificate of occupancy, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(3) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, before the local government issues a certificate of occupancy, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(e) Required notice and relocation assistance to commercial tenants

(1) The development proponent for a mixed-income development shall provide written notice of the pending application to each commercial tenant on the site when the application is submitted.

(2) The development proponent shall provide relocation assistance to each eligible commercial tenant located on the site as follows:

(A) For a commercial tenant operating on the site for at least one year but less than five years, the relocation assistance shall be equivalent to six months' rent.

(B) For a commercial tenant operating on the site for at least five years but less than 10 years, the relocation assistance shall be equivalent to nine months' rent.

(C) For a commercial tenant operating on the site for at least 10 years but less than 15 years, the relocation assistance shall be equivalent to 12 months' rent.

(D) For a commercial tenant operating on the site for at least 15 years but less than 20 years, the relocation assistance shall be equivalent to 15 months' rent.

(E) For a commercial tenant operating on the site for at least 20 years, the relocation assistance shall be equivalent to 18 months' rent.

(3) The relocation assistance shall be provided to an eligible commercial tenant upon expiration of the lease of that commercial tenant.

(4) A commercial tenant is eligible for relocation assistance if the commercial tenant meets all of the following criteria:

(A) The commercial tenant is an independently owned and operated business with its principal office located in the county in which the property on the site that is leased by the commercial tenant is located.

(B) The commercial tenant's lease expired and was not renewed by the property owner.

(C) The commercial tenant's lease expired within the three years following the development proponent's submission of the application for a housing development pursuant to this article.

(D) The commercial tenant employs 20 or fewer employees and has annual average gross receipts under one million dollars ($1,000,000) for the three-taxable-year period ending with the taxable year that precedes the expiration of their lease.

(E) The commercial tenant is still in operation on the site at the time of the expiration of its lease.

(5) Notwithstanding subsection (e)(4), a commercial tenant is ineligible for relocation assistance if the commercial tenant meets both of the following criteria:

(A) The commercial tenant entered into a lease on the site after the development proponent's submission of the application for a housing development pursuant to the Act and these Guidelines.

(B) The commercial tenant had not previously entered into a lease on the site.

(6) The commercial tenant shall utilize the funds provided by the development proponent to relocate the business or for costs of a new business.

(7) Notwithstanding subsection (e)(2), if the commercial tenant elects not to use the funds provided as required by subsection (e)(6), the development proponent shall provide only assistance equal to three months' rent, regardless of the duration of the commercial tenant's lease.

(8) For purposes of subsection (e), monthly rent is equal to one-twelfth of the total amount of rent paid by the commercial tenant in the last 12 months.

(f) If the development includes a commercial component that is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.123, subdivisions (f), (h); 65912.124, subdivisions (h), (k).

ARTICLE IV. STREAMLINED, MINISTERIAL REVIEW PROCESS

Section 400. Applications and Fees

(a) Application materials

(1) A local government shall provide information, in a manner readily accessible to the general public, about the local government's process for applying for, and receiving, the streamlined, ministerial review process, including materials required for an application as defined in section 102(a).

(2) The information provided by the local government may include reference documents and lists of other information needed to enable the local government to determine if the application is consistent with the eligibility requirements and the applicable objective planning standards as described in Articles III and IV.

(3) In no case shall a local government impose application requirements that are more stringent than required for a typical multifamily or mixed-use project in the jurisdiction. However, to the extent that a typical multifamily or mixed-use project in the jurisdiction would require submission of any additional reports or studies that are not otherwise required to assess compliance with the streamlined, ministerial review process, a local government shall not condition the submission, review, or approval of an application on the preparation of any such additional reports or studies.

(4) At the time of application submittal and throughout all stages of the local review process, a local government may only require information that is relevant to and required to determine compliance with objective standards and criteria outlined in Articles II and III of these Guidelines. This includes documentation necessary to confirm compliance with the commercial tenant notification and relocation requirements described in section 303(d).

(5) Where a local government has failed to provide information pursuant to subsection (a) about the local government's process for applying and receiving the streamlined, ministerial review process, the local government shall accept any application that meets the requirements for a standard multifamily entitlement submittal and may only review those applications for compliance in accordance with paragraph (2) of this subsection.

(6) The local government's process and application requirements shall not in any way inhibit, chill, or preclude the streamlined, ministerial review process, which must be strictly focused on assessing compliance with the criteria of the Act and these Guidelines.

(b) Fees

(1) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is processed pursuant to the Act.

(2) If a proposed one hundred percent affordable or mixed-income development demolishes or changes an existing use, the amount of a fee, as defined in Government section 66000, imposed on the development shall be offset to account for the demolition or change so that the amount of the fee is attributable only to the development's incremental impact on public facilities or services.

(A) For purposes of this requirement, an offset amount that exceeds the fee amount shall not be refundable or used to offset any other fee.

(B) This paragraph does not supersede or in any way alter or lessen the effect of the Mitigation Fee Act (Chapter 5 (commencing with section 66000), Chapter 6 (commencing with section 66010), Chapter 7 (commencing with section 66012), Chapter 7.5 (commencing with section 66015), Chapter 8 (commencing with section 66016), and Chapter 9 (commencing with section 66020)).

(C) For the purpose of this requirement, "changes an existing use" means no demolition is proposed, but a current office, commercial, or similar use changes to residential use.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.114, subdivisions (g), (n); 65912.124, subdivisions (g), (n).

Section 401. Local Government Processing

(a) *Ministerial processing*: A proposed housing development that satisfies all of the requirements in Articles II and III, as applicable, shall be a use by right as defined in section 102(nn) and shall be subject to a ministerial review process, as defined in section 102(v) and consistent with paragraph (1) below.

(1) California Environmental Quality Act (CEQA)

(A) No aspect of the development project, including any related permits required for the development project, is a "project" for purposes of Division 13 (commencing with section 21000) of the Public Resources Code.

(B) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with section 66410)) shall be exempt from the requirements of CEQA (Division 13 (commencing with section 21000) of the Public Resources Code).

(C) The determination of whether a proposed project submitted pursuant to these Guidelines is or is not in conflict with the objective planning standards as described in section 400(b) is not a "project" as defined in Public Resources Code section 21065.

(D) The utilization by a development proponent of incentives, concessions, and waivers or reductions of development standards allowed pursuant to Government Code section 65915 shall not cause the project to be subject to a

local discretionary government review process or be considered a “project” under Division 13 (commencing with section 21000) of the Public Resources Code, even if that incentive, concession, or waiver or reduction of development standards is not specified in a local ordinance.

(2) Both residential and non-residential components of a qualified mixed-use development are eligible to receive the Act’s streamlined, ministerial review process. Additional permitting requirements pertaining to individual businesses located in the commercial component (e.g., an alcohol use permit) are subject to local government processes.

(b) Consistency review

(1) Local governments shall both conduct a determination of consistency with applicable objective standards and requirements pursuant to the Act and review the application for completeness pursuant to the Permit Streamlining Act (PSA), as follows:

(A) Upon receipt of an application for the Act’s streamlined, ministerial review process, the local government shall make a determination regarding the development’s consistency with the applicable objective standards and requirements, as described in Article II and Article III, pursuant to the timeframes described in subparagraph (C) below.

i. When determining consistency with the local government’s applicable objective zoning, subdivision, and design review standards, the local government shall only use those standards that meet the definition in section 102(aa). For example, planning standards that require subjective interpretation or decision-making, such as compatibility with “neighborhood character,” shall not be applied as an objective standard unless “neighborhood character” is defined in an objective manner.

ii. A standard that requires a general plan amendment, the adoption of a specific plan, planned development zoning, or another discretionary permit or approval does not constitute an objective standard. A local government shall not require a development proponent to meet any standard for which the local government typically exercises subjective discretion, on a case-by-case basis.

iii. Objective zoning, subdivision, and design review standards may include objective land use specifications adopted by a local government, including, but not limited to, the general plan, housing overlay zones, specific plans, inclusionary zoning ordinances, density bonus ordinances, and any applicable objective standards included in a certified Local Coastal Program or Coastal Land Use Plan, if applicable.

iv. In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective planning standards pursuant to

these Guidelines if the development is consistent with the standards set forth in the general plan.

v. Developments submitted for review pursuant to these Guidelines are only subject to the applicable objective standards in effect at the time that the application is submitted to the local government, or the standards in effect at the time of a complete preliminary application submittal pursuant to Government Code section 65941.1.

vi. Modifications to objective standards granted as part of a density bonus, concession, incentive, parking reduction, or waiver of development standards pursuant to State Density Bonus Law, Government Code section 65915, or a local density bonus ordinance, shall be considered consistent with objective standards, except as provided in section 302(f)(3).

vii. For purposes of determining consistency, a local government shall find that a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards. The local government may only find that a development is inconsistent with one or more objective planning standards if the local government finds no substantial evidence in favor of consistency and that, based on the entire record, no reasonable person could conclude that the development is consistent with the objective standards.

viii. Determination of consistency with objective standards shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply. For example, design review standards or other objective standards that serve to inhibit, chill, or preclude the development of housing under the Act are inconsistent with the application of state law.

ix. The Housing Accountability Act (Government Code section 65589.5) applies to a development qualifying for the streamlined, ministerial review process pursuant to these Guidelines, except that the timeframe for determining the project's consistency with applicable objective standards shall be pursuant to the Act as described in subparagraph (C) below.

(B) In addition to subparagraph (A) above, the local government shall review the application for completeness pursuant to the PSA, Government Code section 65943. Specifically, the local government shall make a determination as to whether the application is complete no later than 30 calendar days after the application is submitted.

i. This provision is based upon Government Code section 65943, subdivision (g), which provides that the PSA completeness review applies to any "development project," including a "housing development project as defined in Government Code section 65905.5,

subdivision (b)(3). Pursuant to this definition, a housing development project includes projects that involve no discretionary approvals.

ii. If the application is incomplete pursuant to the PSA, the local government is still required to make a determination regarding project consistency with the Act pursuant to the timeframes in subparagraph (C) below. For purposes of determining consistency, a development is not in conflict with the objective planning standards solely on the basis that application materials are not included (i.e., the application is incomplete), if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

iii. Pursuant to Government Code section 65943, subdivision (b), if the written determination is not made within the 30-day completeness review period, the application together with the submitted materials shall be deemed complete for the purposes of the PSA.

(C) If a local government determines that a development submitted pursuant to the Act and these Guidelines is in conflict with any of the applicable objective planning standards as described in Articles II and III, as applicable, it shall provide the development proponent, in writing, with an exhaustive list of the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

i. Within 60 calendar days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units.

ii. Within 90 calendar days of submittal of the development proposal to the local government if the development contains more than 150 housing units.

(D) A determination of inconsistency with objective planning standards pursuant to subparagraph (A) does not preclude the development proponent from correcting any deficiencies and resubmitting an application for streamlined review, or from applying for the project under other local government processes. If the development proponent resubmits an application to address written feedback provided by the local government pursuant to subparagraph (A), the local government shall determine whether the resubmittal is consistent or inconsistent with the objective planning standards and provide the development proponent, in writing, with an exhaustive list of the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframe:

i. Within 30 calendar days of resubmittal of the development proposal to the local government.

(E) Documentation of any inconsistencies with objective standards must be

provided to the development proponent within the timeframes described in subparagraphs (A) and (B). If the local government fails to provide the required written documentation pursuant to subparagraphs (A) and (B), the development shall be deemed to satisfy the required objective planning standards as defined in section 102(aa).

(F) If a local government determines that an application for development is not eligible for processing based on the eligibility requirements described in Articles II and III, as applicable, the local government is not required to make a determination regarding consistency with the applicable objective planning standards.

(2) Approval timeframes

(A) Once the local government determines that a development is consistent with the objective planning standards pursuant to the timeframes described in subsection 401(b)(2)(A) and (B), it shall approve the development as follows:

i. Within 60 calendar days of the date that the development is determined to be consistent with the objective planning standards if the development contains 150 or fewer housing units.

ii. Within 90 calendar days of the date that the development is determined to be consistent with the objective planning standards if the development contains more than 150 housing units.

(3) Ministerial design review

(A) Ministerial design review of the application may be conducted by the local government's planning commission or any equivalent board or commission responsible for design review. Ministerial design review, if conducted, shall be objective and be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local government before submission of the development application, and shall be broadly applicable to development within the jurisdiction.

(B) Ministerial design review, if conducted for the purpose of determining any aspect of project consistency, shall be completed within the timeframe for determining consistency as described in section 401(b)(2)(A).

(C) Any ministerial design review conducted by a local government shall not in any way inhibit, chill, stall, delay, or preclude a project from being approved for development pursuant to these Guidelines if objective design review standards are met. This means that discussion or consideration of the application shall only relate to objective design review standards as defined in section 102(aa).

(D) If the local government fails to complete design review within the timeframes provided above, the project is deemed consistent with objective design review

standards.

(c) Coastal development permits

(1) If a development is located within an eligible area of the coastal zone pursuant to sections 200(a)(5)(A) and 300(a)(7)(A), the development shall require a coastal development permit pursuant to Public Resources Code, Division 20, Chapter 7 (commencing with section 30600).

(2) Where a local government, rather than the Coastal Commission, is responsible for taking final action on any required coastal development permit application, the local government with coastal development permitting authority shall approve a coastal development permit if it determines that the development is consistent with all objective standards of the local government's certified local coastal program or, for areas that are not subject to a fully certified local coastal program, the certified land use plan of that area.

(3) For coastal development permits that are appealable to the California Coastal Commission, the Commission is not required to take jurisdiction over (i.e., accept) every appeal. If the California Coastal Commission finds that an appeal does not raise a substantial issue related to conformity with the objective standards of the certified local coastal program or land use plan, due to the relative insignificance of the coastal resources affected by the decision, or other factors, then the California Coastal Commission will not take jurisdiction over the appeal, allowing the local permit approval to stand (PRC § 30625(b); 14 CCR § 13115). If the Coastal Commission does take jurisdiction over an appeal, its standard of review will be conducted pursuant to paragraph (2) above.

(4) For purposes of the Act and these Guidelines, receipt of any density bonus, concession, incentive, waiver or reduction of development standards, and parking ratios to which the applicant is entitled under State Density Bonus Law, Government Code section 65915, shall not constitute a basis to find the project inconsistent with the local coastal program.

(d) Conditions of approval

(1) Approval of ministerial processing does not preclude imposing standard conditions of approval as long as those conditions are objective and broadly applicable to development within the jurisdiction, regardless of use of the streamlined, ministerial review process, and such conditions implement objective standards that had been adopted prior to submission of a development application. This includes any objective process requirements related to the issuance of a building permit. However, any further approvals, such as demolition, grading and building permits or, if required, final map, shall be issued on a ministerial basis subject to the objective standards.

(A) Notwithstanding paragraph (1), standard conditions that specifically implement the provisions of these Guidelines, such as those described in sections 204 and 304, as applicable, and any commitment for recording covenants and restrictions and provision of prevailing wage, may be included in the conditions of approval.

(e) A local government shall allow for a development proponent's use of this process. However, the ability for a development proponent to apply for the streamlined, ministerial review process shall not affect a development proponent's ability to use any alternative streamlined by-right permit processing adopted by a local government, including, but not limited to, the use by-right provisions of Housing Element Law, Government Code section 65583.2, subdivision (i), local overlays, or ministerial provisions associated with specific housing types.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.101, subdivision (u); 65912.110; 65912.114; 65912.120; 65912.124; 65943; 65905.5, subdivision (b)(3).

ARTICLE V. POST-APPROVAL REQUIREMENTS

Section 500. Project Approval Expiration

(a) If a local government approves a development pursuant to the Act and these Guidelines, notwithstanding any other law, the following expiration of approval timeframes, pursuant to Government Code section 65913.4, subdivision (g) shall apply to the development:

(1) If the project includes public investment in housing affordability, beyond tax credits, including but not limited to bond financing, and at least 50 percent of the units are affordable to households making at or below 80 percent of the AMI, then that approval shall not expire.

(2) If the project does not include public investment in housing affordability (including local, state, or federal government assistance) beyond tax credits, and at least 50 percent of the units are not affordable to households making at or below 80 percent of the AMI, that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided construction activity, including demolition and grading activity, on the development site has begun and is in progress. “In progress” means one of the following:

(A) The construction has begun and has not ceased for more than 180 days.

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

(3) The local government may grant the development a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(A) The local government’s action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.

(B) A local government may, but is not required to, allow more extensions than required by statute if the local government has an adopted ordinance that addresses timelines and deadlines to submit for an extension.

(4) If the development proponent requests a modification to an approved project pursuant to section 502(a)(1)(A), then the time during which the approval shall remain valid is extended by the number of days between the submittal of a modification request and the date of the modification approval, plus an additional 180 days to allow time to obtain a building permit. If litigation is filed relating to the modification request, the timing of the expiration shall be extended during the

pending litigation. The extension required for a modification only applies to the first request for a modification requested by the development proponent.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.114, subdivision (l); 65912.124, subdivision (l).

Section 501. Subsequent Permits

(a) A local government shall issue subsequent permits, as defined in section 102(kk), required for a development approved pursuant to the streamlined, ministerial review process if the application for those permits substantially complies with the development as it was approved.

(b) A local government shall issue a subsequent permit pursuant to Government Code section 65913.4, subdivision (i)(2), as follows:

(1) Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved using the streamlined, ministerial review process.

(A) For the purpose of this requirement, "unreasonable delay" shall mean that the local government has failed to comply with the timeframes for post-entitlement permit review as specified in Government Code section 65913.3.

(2) The local government shall consider the application for subsequent permits based upon the objective standards specified in any state or local laws that were in effect when the original development application was submitted, unless the development proponent agrees to a change in objective standards.

(3) Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development.

(4) Notwithstanding the definition in section 201(gg), a subsequent permit does not need to be applied for following the approval of the primary project entitlement in order to be considered a subsequent permit. In other words, a subsequent permit may be applied for at the same time as the primary project entitlement.

(A) This requirement applies to geographically adjacent local governments that are responsible for the review and issuance of subsequent or postentitlement permits needed to implement the approved development, such as, but not limited to, tree removal permits, encroachment permits, and other public improvement permits.

(c) A public improvement that is necessary to implement a development that is subject to the streamlined, ministerial review process shall be undertaken pursuant to Government Code section 65913.4, subdivision (i)(3) as follows:

(1) If a public improvement is necessary to implement a development that is subject to the streamlined, ministerial review process pursuant to these Guidelines, including, but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway,

street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and any related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.

(2) If an application for a public improvement as described in paragraph (1) is submitted to a local government, the local government shall do all of the following:

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

(B) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project that is not eligible to receive ministerial or streamlined approval pursuant to these Guidelines. The local government must comply with the review and timing requirements set forth in Government Code section 65913.3.

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

(A) Adopt or impose any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to these Guidelines.

(B) Unreasonably delay in its consideration, review, or approval of the application. For purposes of this subsection “unreasonably delay” means permit processing times that do not comply with Government Code section 65913.3.

(4) Easements for public right-of-way, public or private utilities, or other public improvements in, under, or over the property shall not make the property ineligible to receive streamlined, ministerial review pursuant to this section.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.114, subdivisions (n), (o), (p), (q); 65912.124, subdivisions (n), (o), (p), (q).

Section 502. Project Modifications

(a) Modifications to the development subsequent to the approval of the ministerial review, but prior to issuance of a final building permit, shall be undertaken pursuant to Government Code section 65913.4, subdivision (h), as follows:

(1) Modifications initiated by the development proponent

(A) Following approval of an application pursuant to these Guidelines, but prior to issuance of the final building permit required for construction of the development, an applicant may submit a written request to modify the development. The modification must conform with the following:

i. The change is consistent with the Act and these Guidelines.

ii. The change is consistent with the objective planning standards specified in Articles II and III, as applicable, that were in effect when the original development application was first submitted. The local government shall evaluate any modifications requested pursuant to this subsection for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved pursuant to the Act and these Guidelines.

iii. A guideline that was adopted or amended by the Department after a development was approved through the streamlined, ministerial review process described in section 401 shall not be used as a basis to deny proposed modifications.

iv. The change will not conflict with a plan, ordinance or policy addressing community health and safety.

v. If the change results in modifications to the concessions, incentives or waivers to development standards approved pursuant to the State Density Bonus Law, then the modified concession, incentive, or waiver must continue to meet the standards of the State Density Bonus Law.

vi. The local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

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

II. The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more, and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in Government Code section 65589.5, subdivision (j)(1)(A), upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact. The calculation of the square footage of construction changes shall not include underground space.

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

(B) Upon receipt of the development proponent's application requesting a modification, the local agency shall determine if the requested modification is consistent with the objective planning standards (as described in sections 203 and 303, as applicable) and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

i. The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modifies the development's consistency with the objective planning standards in effect when the original development application was first submitted, and shall not reconsider prior determinations that are not affected by the modification.

ii. A proposed modification shall not cause the original approval to terminate.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code sections 65912.114, subdivision (m); 65912.124 subdivision (m); 65913.4 subdivisions (h).

ARTICLE VI. PARCEL EXEMPTION REQUIREMENTS

Section 600. Parcel Exemptions for 100 Percent Affordable Development Sites

(a) A local agency may, by ordinance adopted to implement the Act, exempt a parcel(s) from the streamlined, ministerial review process for a 100 percent affordable development before a development proponent submits a development application on the exempted parcel(s), if the local government makes written findings demonstrating compliance with the requirements described in subsection (b).

(b) An implementing ordinance adopted to exempt a parcel or parcels pursuant to subsection (a) is not enforceable unless the local government makes written findings establishing compliance with all of the requirements described in paragraphs (1) through (6) below:

(1) The local government has identified one or more replacement parcels that meet the site eligibility criteria described in section 200(a)(2)-(7), and the replacement parcel criteria described in subparagraphs (A) and (B) below.

(A) *Alternative replacement parcels:* If a replacement parcel(s) identified pursuant to paragraph (1) would not otherwise be eligible for the streamlined, ministerial review process, the implementing ordinance must do both of the following:

i. Provide analysis to demonstrate that the alternative replacement parcel(s) is suitable for residential development. For purposes of this requirement, a parcel suitable for residential development shall have the same meaning as “land suitable for residential development” as defined in Housing Element Law, Government Code section 65583.2.

ii. Authorize the alternative replacement parcel(s) to be developed pursuant to the requirements of the streamlined, ministerial review process. This means that if a development proponent elects to use the streamlined, ministerial review process, any future development proposed on the replacement parcel(s) will be subject to the development requirements applicable to a 100 percent affordable development as described in Article II, Sections 200, 201, 202, and 203, the streamlined, ministerial review process described in Article IV, the post-entitlement provisions described in Article V, and the labor requirements described in Article VII.

(B) *Upzoned replacement parcels:* If a local government elects to identify a replacement parcel(s) pursuant to paragraph (1) that would otherwise be eligible for the streamlined, ministerial review process, the implementing ordinance shall demonstrate that the parcel(s) can be developed ministerially at a higher density than could otherwise be accommodated on the site. The local government shall demonstrate the increase in residential development potential on the parcel(s) by identifying changes to the applicable development standards for the replacement parcel(s) that would directly facilitate an increase in the buildable area.

(2) The substitution of the exempted parcel(s) for the replacement parcel(s) reclassified for development pursuant to subparagraphs (A) and (B) above will result in all of the following:

(A) *No Net Loss of Total Potential Residential Capacity:* The implementing ordinance and accompanying documentation demonstrate that there will be no net loss of the total potential residential capacity in the jurisdiction relative to the total capacity that would have existed in the jurisdiction through the combined effect of the Act and the local land use designations and zoning as of the date of the adoption of the ordinance.

(B) *No Net Loss of Total Potential Residential Capacity of Housing Affordable to Lower Income Households:* The implementing ordinance and accompanying documentation demonstrate that there will be no net loss of the total potential residential capacity of housing affordable to lower income households in the jurisdiction relative to the total capacity that would have existed in the jurisdiction through the combined effect of the Act and the local land use designations and zoning as of the date of the adoption of the ordinance.

(C) For purposes of making the no net loss calculations required by subparagraphs (A) and (B) above, the local government need only factor in the parcels substituted and reclassified pursuant to this section and shall only count capacity added relative to what was previously existing on the site.

(D) *Affirmatively Furthering Fair Housing (AFFH):* The implementing ordinance and accompanying documentation demonstrate that the substitution of the exempted parcel(s) for the replacement parcel(s) will affirmatively further fair housing. For the purposes of this analysis, affirmatively furthering fair housing has the same meaning as in Government Code section 8899.50 (see also Appendix A).

i. In making this finding, the local government must analyze how the replacement parcel(s) would affirmatively further fair housing relative to the exempted parcels.

(3) A replacement parcel or parcels reclassified for development pursuant to subsection (b)(1)(A) and (b)(1)(B) shall be eligible for development pursuant to the Act and these Guidelines, notwithstanding any contrary provision of the local government's charter, general plan, or ordinances.

(4) A replacement parcel or parcels reclassified for development pursuant to subsection (b)(1)(A) and (b)(1)(B) shall be eligible to be developed ministerially at the densities and heights specified in the ordinance, notwithstanding any contrary provision of the local government's charter, general plan, or ordinances.

(5) The local government has completed all of the rezonings required pursuant to Government Code section 65583, subdivision (c) for the sixth revision of its housing element.

(6) The local government has designated on its zoning maps which parcels have been exempted from the streamlined, ministerial review process and which parcels have been reclassified for development pursuant to this section. This information shall be made publicly available through the local government's website.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.114, subdivision (j).

Section 601. Parcel Exemptions for Mixed-Income Development Sites

(a) A local agency may, by ordinance adopted to implement the Act, exempt a parcel(s) from the streamlined, ministerial review process before a development proponent submits a development application on the exempted parcel(s), if the local government makes written findings demonstrating compliance with the requirements described in subsection (b).

(b) An implementing ordinance adopted to exempt a parcel(s) pursuant to subsection (a) is not enforceable unless the local government makes written findings establishing compliance with all of the requirements described in paragraphs (1) through (6) below:

(1) The local government has identified one or more replacement parcels that meet the site eligibility criteria described in section 300(a)(2)-(4) and (7)-(11), and the replacement parcel criteria described in subparagraphs (A) and (B) below.

(A) *Alternative replacement parcels:* If a replacement parcel(s) identified pursuant to paragraph (1) would not otherwise be eligible for the streamlined, ministerial review process, the implementing ordinance must do both of the following:

i. Provide analysis to demonstrate that the replacement parcel(s) are suitable for residential development. For purposes of this requirement, a parcel suitable for residential development shall have the same meaning as "land suitable for residential development" as defined in Housing Element Law, Government Code section 65583.2.

ii. Authorize the replacement parcel(s) to be developed pursuant to the requirements of the streamlined, ministerial review process pursuant to the Act and these Guidelines. This means that if a development proponent elects to use the streamlined, ministerial review process, any future development proposed on a replacement parcel(s) will be subject to the development requirements applicable to a mixed-income development as described in Article III, sections 300, 301, 302, and 303; the streamlined, ministerial review process described in Article IV; the post-entitlement provisions described in Article V; and the labor requirements described in Article VII.

(B) *Upzoned replacement parcels:* If a replacement parcel(s) identified pursuant to paragraph (1) would otherwise be eligible for the streamlined, ministerial review process, the implementing ordinance shall authorize the parcel(s) to be developed ministerially at residential densities above the densities that would otherwise be allowed pursuant to section 302(b)(1), consistent with the

minimum densities specified in 302(c), and above the applicable heights in section 302(e)(1).

(2) The substitution of the exempted parcel(s) for the replacement parcel(s) reclassified for development pursuant to subparagraphs (A) and (B) above will result in all of the following:

(A) *No Net Loss of Total Potential Residential Capacity:* The implementing ordinance and accompanying documentation demonstrate that there will be no net loss of the total potential residential capacity in the jurisdiction relative to the total capacity that would have existed in the jurisdiction through the combined effect of the Act and the local land use designations and zoning as of the date of the adoption of the ordinance. For the purposes of making the no net loss calculation, the local government need only factor in the parcels substituted and reclassified pursuant to this section.

(B) *No Net Loss of Total Potential Residential Capacity of Housing Affordable to Lower Income Households:* The implementing ordinance and accompanying documentation demonstrate that there will be no net loss of the total potential residential capacity of housing affordable to lower income households in the jurisdiction relative to the total capacity that would have existed in the jurisdiction through the combined effect of the Act and the local land use designations and zoning as of the date of the adoption of the ordinance. In making the no net loss calculation specified by this subparagraph, the local government need only factor in the parcels substituted and reclassified pursuant to this section.

(C) For purposes of making the no net loss calculations required by subparagraphs (A) and (B) above, the local government need only factor in the parcels substituted and reclassified pursuant to this section and shall only count capacity added relative to what was previously existing on the site.

(D) *Affirmatively Furthering Fair Housing (AFFH):* The implementing ordinance and accompanying documentation demonstrate that the substitution of the exempted parcel(s) for the replacement parcel(s) will affirmatively further fair housing. For the purposes of this analysis, affirmatively furthering fair housing has the same meaning as in Government Code section 8899.50 (see also Appendix A).

i. In making this finding, the local government must analyze how the replacement site(s) would affirmatively further fair housing relative to the exempted parcels.

(3) A replacement parcel or parcels reclassified for development pursuant to subsections (b)(1)(A) and (b)(1)(B) shall be eligible for development pursuant to the Act and these Guidelines, notwithstanding any contrary provision of the local government's charter, general plan, or ordinances.

(4) A replacement parcel or parcels reclassified for development pursuant to subsection (b)(1)(A) and (b)(1)(B) shall be eligible to be developed ministerially at

the densities and heights specified in the ordinance, notwithstanding any contrary provision of the local government’s charter, general plan, or ordinances.

(5) The local government has completed all of the rezonings required pursuant to Government Code section 65583, subdivision (c) for the sixth revision of its housing element.

(6) The local government has designated on its zoning maps which parcels have been exempted from the Act and which parcels have been reclassified for development pursuant to subsection (a). This information shall be made publicly available through the local government’s website.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.124, subdivision (j).

ARTICLE VII. LABOR PROVISIONS

Section 700. Labor Standards for All Affordable Housing and High Road Jobs Act Developments

The Labor Provisions in the Act are located in Government Code sections 65912.130-65912.131.

A development project approved by a local government through the streamlined, ministerial review process shall meet all of the following labor standards:

(a) The development proponent shall require in contracts with construction contractors, and shall certify to the local government, that the standards specified in this section will be met in project construction.

(b) A development that is not in its entirety a public work for purposes of Labor Code, Division 2, Part 7, Chapter 1 (commencing with section 1720) and approved by a local government pursuant to the Act and these Guidelines shall be subject to all of the following:

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

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

(3) All contractors and subcontractors for those portions of the development that are not a public work shall comply with all of the following:

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

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

(C) Be registered in accordance with Labor Code section 1725.6.

(c) The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this section may be enforced by any of the following:

(1) The Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Labor Code section 1741, which may be reviewed pursuant to Labor Code section 1742, within 18 months after the completion of the development.

(2) An underpaid worker through an administrative complaint or civil action.

(3) A joint labor-management committee through a civil action under Labor Code section 1771.2.

(d) If a civil wage and penalty assessment is issued pursuant to this section, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Labor Code section 1742.1.

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

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

(f) The requirement of this section to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Labor Code sections 511 or 514.

(g) For those portions of the development that are not a public work, the development proponent shall provide notice of all contracts for the performance of the work to the Department of Industrial Relations, in accordance with Labor Code section 1773.35.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.130.

Section 701. Labor Standards for Affordable Housing and High Road Jobs Act Developments of 50 or More Housing Units

In addition to the requirements of section 700(a)-(g), a development project of 50 or more units approved by a local government through the streamlined, ministerial review process shall meet all of the following labor standards:

(a) The development proponent shall require in contracts with construction contractors and shall certify to the local government that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours shall satisfy the requirements in subsections (b) and (c). A construction contractor is deemed in compliance with subsections (b) and (c) if it is signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents.

(b) A contractor with construction craft employees shall either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards pursuant to Labor Code section 3075 or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth in Labor Code section 1777.5. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision.

(c) Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two 40-year-old adults and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision. Qualifying expenditures shall be credited toward compliance with prevailing wage payment requirements set forth in section 700.

(d) The development proponent shall provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with subsections (b) and (c). The reports shall be considered public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection.

    (1) A development proponent that fails to provide the monthly report shall be subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of ten thousand dollars ($10,000). Any contractor or subcontractor that fails to comply with subsection (b) or (c) shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of subsection (b) or (c).

    (2) Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments specified in Labor Code section 1741 and may be reviewed pursuant to Labor Code section 1742. Penalties shall be deposited in the State Public Works Enforcement Fund established pursuant to Labor Code section 1771.3.

(e) Each construction contractor shall maintain and verify payroll records pursuant to Labor Code section 1776. Each construction contractor shall submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner in accordance with Labor Code section 1771.4, subdivision (a), paragraph (3), subparagraph (A). The records shall include a statement of fringe

benefits. Upon request by a joint labor-management cooperation committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided pursuant to subdivision (e) of Labor Code section 1776.

(f) All construction contractors shall report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days and shall reflect those changes on the monthly report. The reports shall be considered public records pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection.

(g) A joint labor-management cooperation committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a construction contractor for failure to make health care expenditures pursuant to subdivision (c) in accordance with Labor Code sections 218.7 or 218.8.

NOTE: Authority cited: Government Code section 65912.102. Reference cited: Government Code section 65912.131.

APPENDIX A – Definitions and Provisions from Other California Statutes Cited in the Affordable Housing and High Road Jobs Act

Definitions are those in effect as of January 1, 2026. The following definitions are excerpts from other statutes that are relevant to the Act and Guidelines and, in some cases, do not include the entire code section. Definitions are listed alphabetically.

ABBREVIATIONS

- Government Code = GC
- Health and Safety Code = HSC
- Public Contract Code = PCC
- Public Resources Code = PRC
- Vehicle Code = VC

DEFINITIONS

Extremely low income households (HSC, § 50106)

"Extremely low income households" means persons and families whose incomes do not exceed the qualifying limits for extremely low income families as established and amended from time to time by the Secretary of Housing and Urban Development and defined in Section 5.603(b) of Title 24 of the Code of Federal Regulations. These limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for extremely low income households for all geographic areas of the state at 30 percent of area median income, adjusted for family size and revised annually. As used in this section, "area median income" means the median family income of a geographic area of the state.

Freeway (VC, § 332)

"Freeway" is a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access.

Housing development project (GC, § 65589.5, subd. (h)(2)(A)-(D))

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

Lower income households (HSC, § 50079.5)

(a) "Lower income households" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually.

(b) "Lower income households" includes very low income households, as defined in Section 50105, and extremely low income households, as defined in Section 50106. The addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(c) As used in this section, "area median income" means the median family income of a geographic area of the state.

Major transit stop (PRC, § 21155, subd. (b) and § 21064.3)

PRC Section 21155, subd. (b): A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan.

PRC Section, subd. 21064.3: "Major transit stop" means a site containing any of the following:

(a) An existing rail or bus rapid transit station.

(b) A ferry terminal served by either a bus or rail transit service.

(c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.

Moderate-income households (HSC, § 50093)

“Persons and families of low or moderate income” means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the [California Housing Finance Agency (agency)] and the Department jointly, or either acting with the concurrence of the Secretary of Business, Consumer Services and Housing, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

“Persons and families of low or moderate income” includes very low income households, as defined in Section 50105, extremely low income households, as defined in Section 50106, and lower income households as defined in Section 50079.5, and includes persons and families of extremely low income, persons and families of very low income, persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

(a) “Persons and families of low income” or “persons of low income” means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

(b) “Persons and families of moderate income” or “middle-income families” means persons and families of low or moderate income whose income exceeds the income limit for lower income households.

(c) “Persons and families of median income” means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, “area median income” means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100 percent of area median income, and for persons and families of low or moderate income for all geographic areas of the state

at 120 percent of area median income. These income limits shall be adjusted for family size and shall be revised annually.

Phase I environmental assessment (HSC, § 78090)

"Phase I environmental assessment" means a preliminary assessment of a property to determine whether there has been, or may have been, a release of a hazardous substance based on reasonably available information about the property and general vicinity. A phase I environmental assessment may include, but is not limited to, a review of public and private records, current and historical land uses, prior releases of a hazardous material, database searches, reviews of relevant files of federal, state, and local agencies, visual and other surveys of the property and general vicinity, interviews with current and previous owners and operators, and review of regulatory correspondence and environmental reports. Sampling or testing is not required as part of a phase I environmental assessment.

Project labor agreement (PCC, § 2500, subd. (b)(1)

"Project labor agreement" means a prehire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code.

Sidewalk (VC, § 555)

"Sidewalk" is that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

Street (VC, § 590)

"Street" is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Street includes highway.

Subsequent permit (GC § 65913.3, subd. (j)(3)(A))

(3)(A) "Postentitlement phase permit" includes both of the following:

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

(I) Building permits, and all interdepartmental review required for the issuance of a building permit.

(II) Permits for minor or standard off-site improvements.

(III)Permits for demolition.

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

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

Total units, total dwelling units (GC, § 65915, subd. (o)(9)(A)(i)-(ii))

"Total units" or "total dwelling units" means a calculation of the number of units that:

(i) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(ii) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

Very low income households (HSC, § 50105)

(a) "Very low income households" means persons and families whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. These qualifying limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for very low income households for all geographic areas of the state at 50 percent of area median income, adjusted for family size and revised annually.

(b) "Very low income households" includes extremely low income households, as defined in Section 50106. The addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(c) As used in this section, "area median income" means the median family income of a geographic area of the state.

Very low vehicle travel area (GC § 65589.5.1, subd. (b)(6)(A)

"Very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita.

APPENDIX B – Public Resources Code Tribal Consultation Provisions for Vacant Sites

Tribal cultural resources (PRC, § 21074)

(a) "Tribal cultural resources" are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

Tribal consultation (PRC, § 21080.3.1)

(a) The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources.

(b) Prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the lead agency shall defer to the individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. For purposes of this section and Section 21080.3.2, "consultation" shall have the same meaning as provided in Section 65352.4 of the

Government Code.

(c) To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.

(d) Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.

(e) The lead agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.

Mitigation process (PRC, § 21080.3.2)

(a) As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended to the lead agency.

(b) The consultation shall be considered concluded when either of the following occurs:

(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

(c) (1) This section does not limit the ability of a California Native American tribe or the public to submit information to the lead agency regarding the significance of the tribal cultural resources, the significance of the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impact.

(2) This section does not limit the ability of the lead agency or project proponent to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

(d) If the project proponent or its consultants participate in the consultation, those parties shall respect the principles set forth in this section.