AMENDED IN SENATE APRIL 10, 2019

AMENDED IN SENATE FEBRUARY 28, 2019

SENATE BILL No. 4

Introduced by Senators McGuire and Beall

December 3, 2018

An act to add Sections 65913.5 and 65913.6 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, McGuire. Housing.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

Existing law authorizes a development proponent to submit an application for a multifamily housing development that satisfies specified planning objective standards to be subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit.

This bill would authorize a development proponent of a neighborhood multifamily project or eligible ~~TOD~~ *transit-oriented development (TOD)*

project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit. The bill would define a "neighborhood multifamily project" to mean a project to construct a multifamily unit of up to 2 residential dwelling units in a nonurban community, as defined, or up to 4 residential dwelling units in an urban community, as defined, that meets local height, setback, and lot coverage zoning requirements as they existed on July 1, 2019. The bill would define an "eligible TOD project" as a project located in an urban community, as defined, that meets specified height requirements, is located within ½ mile of an existing or planned transit station parcel or entrance, and meets other floor area ratio, density, parking, and zoning requirements. The bill also requires an eligible TOD project development proponent to develop a plan that ensures transit accessibility to the residents of the development in coordination with the applicable local transit agency. The bill would require specified TOD projects to comply with specified affordability, prevailing wage, and skilled and trained workforce requirements. The bill would also define "eligible parcel" to mean a parcel located within a city or county that has unmet regional housing needs and has produced fewer housing units than jobs over a specified period; is zoned to allow residential use and qualifies as an infill site; is not located within a historic district, coastal zone, very high fire hazard severity zone, or a flood plain; the development would not require the demolition of specified types of affordable housing; the parcel is not eligible for development under existing specified transit-oriented development authorizations; and the parcel in question has been fully reassessed on or after January 1, 2021, to reflect its full cash ~~value.~~ *value, following a change in ownership.*

This bill would require a local agency to notify the development proponent in writing if the local agency determines that the development conflicts with any of the requirements provided for streamlined ministerial approval; otherwise, the development is deemed to comply with those requirements. The bill would limit the authority of a local agency to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. ~~The bill would prohibit a local agency, special district, or water corporation from considering a neighborhood multifamily unit to be a new residential use for the purpose of calculating fees charged for new development, except as otherwise provided.~~ The bill would provide that if a local agency approves a project pursuant to that process, that approval will

not expire if that project includes investment in housing affordability, and would otherwise provide that the approval of a project expire automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would provide that approval pursuant to its provisions would remain valid for 3 years and remain valid thereafter, so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would prohibit a local agency from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions.

This bill would allow a local agency to exempt a project from the streamlined ministerial approval process described above by finding that the project will cause a specific adverse impact to public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill would establish a streamlined ministerial approval process for neighborhood multifamily and transit-oriented projects, thereby exempting these projects from the CEQA approval process.

(3) The bill would make findings that ensuring access to affordable housing is a matter of statewide concern rather than a municipal affair and, therefore, applies to all cities, including a charter city and a charter city and county.

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

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

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

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

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

(1) California's high and rising land costs necessitate dense housing construction in order for a project to be financially viable and affordable to lower income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst's Office found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by 4 percent during the 2000s. The pattern of development in California has changed in ways that limit new housing opportunities. New development shifted from moderate, but widespread density in the 1960s and 1970s, to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing.

(2) Economists widely agree that restrictive land use policies increase housing prices. Studies have found that housing prices in California are higher and increase faster in jurisdictions with stricter land use controls, and in some markets, each additional regulatory measure increases housing prices by nearly 5 percent. Stricter land use controls are also associated with greater displacement and segregation along both income and racial lines. Restrictive land use policies also hurt economic growth by preventing residents from moving to more productive areas where they can accept more productive jobs that pay higher wages.

(3) At the same time, there are limitations to lowering housing prices by expanding supply. New housing stock takes decades to become affordable, and new housing can displace existing residents absent adequate safeguards. Moreover, reductions in the cost to produce housing do not necessarily lead to a reduction in housing prices. While local agencies control housing approvals, developers are ultimately responsible for construction. Finally, solutions that apply to the state's major metropolitan areas may not be effective in rural areas.

(b) Therefore, it is the intent of the Legislature to enact legislation that would limit restrictive local land use policies and legislation that would encourage increased housing development near transit and job centers, in a manner that ensures that every jurisdiction contributes its fair share to a housing solution, while acknowledging relevant differences among communities.

SEC. 2. Section 65913.5 is added to the Government Code, to read:

65913.5. For purposes of this section and Section 65913.6, the following definitions shall ~~apply.~~ *apply:*

(a) "Development proponent" means the developer who submits an application for streamlined approval pursuant to Section 65913.6.

(b) "Eligible parcel" means a parcel that meets all of the following requirements:

(1) The parcel on which the project would be located has been fully reassessed on or after January 1, 2021, to reflect its full cash value ~~as if a change in ownership has occurred,~~ *following a change in ownership,* as defined by Sections 60 and 61 of the Revenue and Taxation Code.

(2) The parcel is located within the jurisdictional boundaries of a local agency that meets both of the following conditions:

(A) The Department of Housing and Community Development has determined that the local agency has produced fewer housing units than jobs over the past 10 years, based on data developed by the United States Bureau of Labor Statistics and the Employment Development Department.

(B) The local agency has unmet regional housing needs.

(3) The parcel is not located within any of the following:

(A) An architecturally or historically significant historic district, as defined in subdivision (h) of Section 5020.1 of the Public Resources Code.

(B) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

A parcel is not ineligible within the meaning of this paragraph if it is either of the following:

(i) A site excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179.

(ii) A site that has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(D) A flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit 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.

(4) The development of the project on the proposed parcel would not require the demolition of any of the following types of housing:

(A) 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.

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

(C) Housing that has been occupied by tenants within the past 10 years.

(5) The site was not previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

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

(7) The proposed parcel does not contain housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The parcel is zoned to allow residential use and qualifies as an infill site.

(9) The parcel does not qualify as an eligible TOD project site for a development under Article 4 (commencing with Section 29010) of Chapter 6 of Part 2 of Division 10 of the Public Utilities Code.

(c) "Eligible TOD project" means a TOD project, located on an eligible parcel in an urban community, that meets all of the following requirements:

(1) It has a height less than or equal to one story, or 15 feet, above the highest allowable height for mixed use or residential use. For purposes of this paragraph, "highest allowable height" means the tallest height, including heights that require conditional approval, allowable pursuant to zoning and any specific or area plan that covers the parcel.

(2) It is located within a one-half mile of an existing or planned transit station entrance.

(3) It has a floor area ratio equal to or less than 0.6 times the number of stories that satisfies paragraph (1). If the parcel is not subject to a zoning ordinance or other restriction on maximum height, the maximum allowable floor area ratio shall be calculated by multiplying the number of stories proposed for the project by 0.6.

(4) It has a minimum density of 30 dwelling units per acre in jurisdictions considered metropolitan, as defined in subdivision (f) of Section 65583.2, or a minimum density of 20 dwelling units per acre in jurisdictions considered ~~suburban~~ *suburban,* as defined in subdivision (e) of Section 65583.2.

(5) It provides parking as follows:

(A) The project provides parking consistent with the provisions of subdivision (p) of Section 65915, if the project is located in a city with less than 100,000 residents or if the project is located in a city with over 100,000 residents and is between one-fourth and one-half mile from an existing or planned transit station.

(B) No minimum parking requirement shall apply to a project located in a jurisdiction with over 100,000 residents and that is within one-fourth of a mile from an existing or planned transit station entrance.

(6) At least two-thirds of the square footage of the development is designated for residential use.

(7) The eligible TOD project meets all local requirements that do not conflict with this section or Section 65913.6, including, but not limited to, a general plan, specific plan, or zoning ordinance. If, on or after July 1, 2019, a local agency adopts an ordinance that eliminates residential zoning designations or decreases residential zoning development capacity within an existing zoning district in

which the development is located other than what was authorized on July 1, 2019, then that development shall be deemed to be consistent with any applicable requirement of this section and Section 65913.6 if it complies with zoning designations not in conflict with this section and Section 65913.6 that were authorized as of July 1, 2019.

(8) The development proponent of the TOD project, in coordination with the applicable local transit agency, develops a plan to ensure transit accessibility to the residents of the development.

(9) For a TOD project relating to a planned transit station, the station has been approved by an ordinance or resolution adopted by the legislative body of the local agency with local land use zoning jurisdiction over the area in which the station is located.

(10) For a TOD project of 10 units or greater, the development proponent dedicates a minimum of 30 percent of the total number of units available at an affordable rent or affordable housing cost to households earning below 80 percent of the area median income and executes a recorded affordability restriction for at least 55 years. If the local agency has adopted a local ordinance that requires that greater than 30 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, then that local ordinance shall apply.

(11) The TOD project proponent certifies to the local agency that either of the following is true, as applicable:

(A) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will 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 Sections 1773 and 1773.9 of the Labor Code, 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. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(i) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) All contractors and subcontractors shall 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.

(iii) Except as provided in clause (v), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(iv) Except as provided in clause (v), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, 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 Section 1742.1 of the Labor Code.

(v) Clauses (iii) and (iv) shall 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 clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(vi) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a

bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(12) (A) For a TOD project in which any of the following conditions apply, the development proponent certifies that a skilled and trained workforce shall be used to complete the development if one of the following is met:

(i) The development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a local agency located in a coastal or bay county with a population of 225,000 or more.

(ii) The development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a local agency with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(B) Notwithstanding subparagraph (A), a project that is subject to approval pursuant to this section is exempt from the prevailing wage and skilled workforce requirements if it meets both of the following:

(i) The project includes fewer than 10 units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(C) For purposes of this paragraph, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(D) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, all of the following shall apply:

(i) The development proponent shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(ii) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(iii) Except as provided in clause (iv), the development proponent shall provide to the local agency, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the local agency pursuant to this clause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. A development proponent that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund created pursuant to Section 1771.3 of the Labor Code.

(iv) Clause (iii) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement 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 paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(d) “Floor area ratio” means the ratio of gross building area of the development, excluding structured parking areas, proposed for the project, divided by the total area of the parcel or parcels used by the project. For purposes of this subdivision, “gross building area” means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(e) "Local agency" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(f) "Neighborhood multifamily project" means a project to construct a multifamily unit of up to two residential dwelling units in a nonurban community, and up to four residential dwelling units in an urban community, located on an eligible parcel, that meets all of the following requirements:

(1) The parcel or parcels on which the neighborhood multifamily project would be located is vacant land, as defined in subdivision (p).

(2) The neighborhood multifamily project meets all local requirements that do not conflict with this subdivision or Section 65913.6 for height, setbacks, lot coverage, and any other applicable local zoning requirement. If, on or after July 1, 2019, a local agency adopts an ordinance that eliminates residential zoning designations or decreases residential zoning development capacity within an existing zoning district in which the development is located than what was authorized on July 1, 2019, then that development shall be deemed to be consistent with any applicable requirement of this section and Section 65913.6 if it complies with zoning designations not in conflict with this section and Section 65913.6 that were authorized as of July 1, 2019.

(3) The project provides at least 0.5 parking spaces per unit.

(g) "Planned transit station" means a transit station that has completed the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) review and for which construction is more than 75 percent funded.

(h) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(i) "Reporting period" means either of the following:

(1) The first half of the regional housing needs assessment cycle.

(2) The last half of the regional housing needs assessment cycle.

(j) "Station entrance" means the entry point into an enclosed station structure, or, if that point is not clear or does not exist, the station fare gates.

(k) "TOD" means transit-oriented development.

(*l*) "Transit station" means a passenger rail or light-rail station or ferry terminal, but does not include stations solely served by National Railroad Passenger Corporation lines that leave the state.

(m) "Unmet regional housing needs" means the Department of Housing and Community Development has determined that the number of units that have been entitled, or issued building permits or certificates of occupancy, is less than the local agency's share of the regional housing needs, for any income category, for that reporting period. A local agency shall remain subject to this subdivision until the department's determination for the next reporting period. A local agency shall be subject to this subdivision if it has not submitted an annual housing element report to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval by Section 65913.6.

(n) "Urban community" means either of the following:

(1) A city with a population of 50,000 or greater that is located in a county with a population of less than 1,000,000.

(2) An urbanized area or urban cluster, as designated by the United States Census Bureau, located in a county with a population of 1,000,000 or greater.

(o) "Nonurban community" means an urbanized area or urban cluster, as designated by the United States Census Bureau, that is not an urban community.

(p) "Vacant land" means either of the following:

(1) A property that contains no existing structures.

(2) A property that contains at least one existing structure, but the structure or structures have been unoccupied for at least five years and are considered substandard as defined by Section 17920.3 of the Health and Safety Code.

(q) (1) "Infill site" means a site in an urban or nonurban community that meets either of the following criteria:

(A) The site has not been previously developed for urban uses and both of the following apply:

(i) The site is immediately adjacent to parcels that are developed with urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for urban uses.

(ii) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(B) The site has been previously developed for urban uses.

(2) For purposes of this subdivision, "urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

SEC. 3. Section 65913.6 is added to the Government Code, to read:

65913.6. (a) For purposes of this section, the definitions provided in Section 65913.5 shall apply.

(b) Except as provided in subdivision (i), a development proponent of a neighborhood multifamily project or eligible TOD project located on an eligible parcel may submit an application for a development to be subject to a streamlined, ministerial approval process provided by subdivision (c) and not be subject to a conditional use permit if the development meets the requirements of this section and Section 65913.5 and is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local agency pursuant to this section. For purposes of this subdivision, "objective zoning standards" and "objective design review standards" means 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 development proponent and the public official before the development proponent submits an application pursuant to this section.

(c) (1) If a local agency determines that a development submitted pursuant to this section is in conflict with any of the requirements specified in this section or Section 65913.5, it shall provide the development proponent written documentation of which requirement or requirements the development conflicts with, and an explanation for the reason or reasons the development conflicts with that requirement or requirements, as follows:

(A) Within 60 days of submission of the development to the local agency pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submission of the development to the local agency pursuant to this section if the development contains more than 150 housing units.

(2) If the local agency fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the requirements of this section and Section 65913.5.

(d) Any design review or public oversight of the development may be conducted by the local agency's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local agency before submission of a development application, and shall be broadly applicable to development within the local agency. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submission of the development to the local agency pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submission of the development to the local agency pursuant to this section if the development contains more than 150 housing units.

(e) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section beyond those provided in the minimum requirements of Section 65913.5.

(f) (1) If a local agency approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, and 50 percent of the units are affordable to households making below 80 percent of the area median income.

(2) If a local agency approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready. For purposes of this paragraph, "significant progress" includes filing a building permit application.

(3) If a local agency approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local agency shall have discretion to grant, an additional one-year extension to the original three-year period. The local agency's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

~~(g) A neighborhood multifamily project shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating fees charged for new development, except as provided in paragraphs (1) and (2).~~

~~(1) Connection fees and capacity charges related to water, sewer, and electrical service shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).~~

~~(2) Fees charged by a school district pursuant to Chapter 4.9 (commencing with Section 65995) of this code and Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code shall be limited to no more than three thousand dollars ($3,000) per dwelling unit.~~

(g) It is the intent of the Legislature to address the effect of unreasonable fees imposed on small housing developments, informed by the study due to be completed by the Department of Housing and Community Development on or before June 30, 2019, pursuant to Section 50456 of the Health and Safety Code.

(h) A development proponent of an eligible TOD project may apply for a density bonus pursuant to Section 65915. For purposes of an application submitted pursuant to this section, "maximum

allowable gross residential density," as that term is used in Section 65915, includes the highest allowable height, as defined in paragraph (1) of subdivision (c) of Section 65913.5, and the floor area ratio requirement described in of paragraph (2) of subdivision (c) of Section 65913.5. A project that meets the requirements of subdivision (c) of Section 65913.5 before the addition of any height increases, density increases, waivers, or concessions awarded through a density bonus shall remain eligible for streamlining under this section after the addition of a density bonus, waiver, incentive, or concession.

(i) This section shall not apply if the local agency finds that the development project as proposed would have a specific, adverse impact upon the public health or safety, including, but not limited to, fire safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(j) A local agency shall not adopt 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 eligible to receive ministerial or streamlined approval pursuant to this section.

(k) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local agency, including the provisions of subdivision (i) of Section 65583.2 or 65913.4.

(*l*) This section shall become effective on January 1, 2022.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, the changes made by this act apply to all cities, including a charter city or a charter city and county.

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

O