



**SB-10 Planning and zoning: housing development: density.** (2021-2022)

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Date Published: 02/24/2021 09:00 PM

AMENDED IN SENATE FEBRUARY 24, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

**SENATE BILL**

**NO. 10**

**Introduced by Senator Wiener**  
**(Principal coauthors: Senators Atkins and Caballero)**  
**(Principal coauthor: Assembly Member Robert Rivas)**

**December 07, 2020**

An act to add Section 65913.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as amended, Wiener. Planning and zoning: housing development: density.

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.

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, ~~2022~~, 2023, based on specified criteria. The bill would specify that an ordinance adopted under these ~~provisions~~ *provisions, and any resolution adopted to amend the jurisdiction's General Plan to be consistent with that ordinance*, is not a project for purposes of the California Environmental Quality Act. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 65913.5 is added to the Government Code, to read:

**65913.5.** (a) (1) Notwithstanding any local restrictions on adopting zoning ordinances enacted by the jurisdiction, including restrictions enacted by a local voter initiative, that limit the legislative body's ability to adopt zoning ordinances, a local government may pass an ordinance to zone a parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in one of the following:

(A) A transit-rich area.

(B) A jobs-rich area.

(C) An urban infill site.

(2) An ordinance adopted in accordance with this ~~subdivision~~ *subdivision, and any resolution adopted to amend the jurisdiction's General Plan to be consistent with that zoning ordinance*, shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) Paragraph (1) shall not apply to parcels located within 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. This paragraph does not apply to parcels excluded from the specified hazard zones by a local agency pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(b) (1) Notwithstanding any other law, a residential or mixed-use residential project consisting of more than 10 new residential units on one or more parcels that have been zoned to permit residential development pursuant to this section shall not be approved ministerially or by right, and shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Paragraph (1) shall not apply to a project to create no more than two accessory dwelling units and no more than two junior accessory dwelling units per parcel pursuant to Sections 65852.2 and 65852.22 of the Government Code.

(3) A project may not be divided into smaller projects in order to exclude the project from the prohibition in this subdivision.

(c) For purposes of this section:

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

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

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

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

(2) (A) "Jobs-rich area" means an area identified by the Department of Housing and Community Development in consultation with the Office of Planning and Research *and other necessary stakeholders* that is high opportunity and either is jobs rich or would enable shorter commute distances based on whether, in a regional analysis, the tract meets both of the following:

(i) The tract is high opportunity, meaning its characteristics are associated with positive educational and economic outcomes for households of all income levels residing in the tract.

(ii) The tract meets either of the following criteria:

(I) New housing sited in the tract would enable residents to live near more jobs than is typical for tracts in the region.

(II) New housing sited in the tract would enable shorter commute distances for residents, relative to existing commute patterns and jobs-housing fit.

(B) The Department of Housing and Community Development shall, commencing on January 1, ~~2022~~, 2023, publish and update, every five years thereafter, a map of the state showing the areas identified by the department as "jobs-rich areas." *The department shall begin with the most current version of the Department of Housing and Community Development and California Tax Credit Allocation Committee Opportunity Maps and update the methodology as it determines is appropriate to advance the goals of subparagraph (A).*

(3) "Transit-rich area" means a parcel within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or a parcel on a high-quality bus corridor.

(4) "Urban infill site" means a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(d) The Legislature finds and declares that ensuring the adequate production of affordable housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.