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## SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

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**Bill No:** AB 2097  
**Author:** Friedman  
**Version:** 6/9/22  
**Consultant:** Favorini-Csorba

**Hearing Date:** 6/15/22  
**Tax Levy:** No  
**Fiscal:** Yes

### ***RESIDENTIAL AND COMMERCIAL DEVELOPMENT: PARKING REQUIREMENTS***

*Prohibits public agencies from imposing or enforcing parking minimums on developments within ½ mile of a major transit stop.*

#### **Background**

Planning and approving new housing is mainly a local responsibility. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

**Planning and Zoning Law.** State law provides additional powers and duties for cities and counties regarding land use. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory “elements,” including a housing element that establishes the locations and densities of housing, among other requirements. Cities’ and counties’ major land use decisions—including most zoning ordinances and other aspects of development permitting—must be consistent with their general plans. The Planning and Zoning Law also establishes a planning agency in each city and county, which may be a separate planning commission, administrative body, or the legislative body of the city or county itself. Cities and counties must provide a path to appeal a decision to the planning commission and/or the city council or county board of supervisors. Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals.

Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

**Parking standards.** Cities and counties generally establish requirements for a minimum amount of parking that developers must provide for a given facility or use, known as parking minimums or parking ratios. Local governments commonly index parking minimums to conditions related to the building or facility with which they are associated. For example, shopping centers may have parking requirements linked to total floor space, restaurants may be linked to the total number of seats, and hotels may have parking spaces linked to the number of beds or rooms.

In 2019, the California Air Resources Board (CARB) reviewed over 200 municipal codes and found that for nonresidential construction, an average of at least one parking space is installed for every 275 square feet of nonresidential building floor space. Accounting for the fact that approximately 60 percent of reviewed municipal codes already allow developers to reduce parking by an average of 30 percent, CARB staff estimated that between 1.4 million and 1.7 million new nonresidential parking spaces may be constructed from 2021-2024.

CARB also conducted a limited review of minimum parking requirements and found that parking requirements often result in an over-supply of parking. In reviewing 10 developments in Southern California, CARB noted that while most sites built exactly the minimum parking required by the local agency, the peak parking utilization at these sites ranged from 56 percent to 72 percent at each development, suggesting that the minimum requirements established by the local agency created an oversupply of parking.

**Research on parking and its impacts.** Although challenging to quantify, parking minimums are thought to encourage automobile use. For example, in a recent journal article, *What do Residential Lotteries Show us About Transportation Choices?*, researchers from the University of California found that data from affordable housing lotteries in San Francisco provided a unique setting that effectively randomized housing assignments for housing lottery applicants. The study found “that a building’s parking ratio not only influences car ownership, vehicle travel and public transport use, but has a stronger effect than public transport accessibility. Buildings with at least one parking space per unit (as required by zoning codes in most US cities, and in San Francisco until circa 2010) have more than twice the car ownership rate of buildings that have no parking... In buildings with no on-site parking, only 38% of households own a car. In buildings with at least one parking space per unit, more than 81% of households own automobiles.”

A number of sources have documented the harms associated with imposing parking requirements. Of particular interest given California’s housing challenges is that parking requirements can increase the cost of production and render infeasible some projects, whether financially due to the cost of constructing parking or physically due to capacity limitations of some sites. For example, the City and County of San Francisco eliminated parking minimums in 2018. According to the San Francisco Planning Department:

“San Francisco eliminated mandatory parking requirements in 2018, recognizing that these requirements can lead to an oversupply of parking spaces that encourages car dependence, discourages mass transit usage, and increases the cost of housing. According to estimates by SF Planning Department, at the time parking minimums were eliminated, minimum parking rules added as much as \$50,000 to the cost of the housing unit. They undermined pedestrian safety, requiring dangerous driveways to be built in some of the most densely populated, walkable areas of the City. Parking minimums also contributed to traffic

congestion, encouraging residents to own private cars, instead of taking transit, walking, or biking.”

A recent study by Santa Clara University found that the cost of garage parking to renter households is approximately \$1,700 per year, or an additional 17% of a housing unit’s rent. Others note that parking requirements can reduce the number of buildable units on a site by taking up space that could be devoted to housing.

Research has documented other harms associated with parking minimums outside the housing context. According to the Turner Center for Housing Innovation:

“Parking requirements have also been linked to a variety of negative secondary impacts, in particular the environmental costs for cities. Parking contributes to the urban heat island effect and does not support any biodiversity. Land coverage by asphalt increases stormwater runoff, which raises the risk of flooding and causes higher pollution levels in freshwater systems. Chemical compounds used to seal parking lots can seep into groundwater and freshwater systems, which contributes to pollution and decreases the health of these ecosystems. Because it encourages automobile usage, parking also hinders the effectiveness and usage of alternative forms of transit (public transportation, biking, etc.), increases congestion, and causes externalities like air pollution, noise pollution, and greenhouse gas emissions.

Various advocates want the Legislature to prohibit parking minimums near transit.

### **Proposed Law**

Assembly Bill 2097 prohibits a public agency from imposing or enforcing a minimum parking requirement on any development, including residential or commercial, if the project is located within ½ mile of public transit. The bill defines “public transit” to mean any of the following:

- A high quality transit corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours, as defined in existing law;
- A major transit stop, which is defined in existing law to include an existing rail or bus rapid transit station, a ferry terminal served by either bus or rail transit service, or the intersection of two or more major bus routes with service intervals of 15 minutes or less during the morning and afternoon peak commute periods; or
- A high quality transit corridor or major transit stop included in an applicable regional transportation plan.

However, for residential or mixed-use development to qualify for the bill’s elimination of parking minimums, the project must comprise either:

- No more than 40 units of housing; or
- At least 11 percent very-low income, 20 percent lower income, or 40 percent moderate income housing units restricted for at least 55 years.

The bill also provides that a development project must provide parking, as required by the local ordinance, for employees and other workers of transient lodging or an event center.

If a developer provides parking voluntarily, AB 2097 allows a public agency to impose requirements on that voluntary parking to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking.

AB 2097 provides that it does not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development to provide electric vehicle parking spaces or accessible parking spaces as would have been required but for the bill.

AB 2097 does not apply to commercial parking requirements if the bill conflicts with an existing contractual agreement of the public agency provided that that all of the commercial parking is shared with the public and the agreement was executed before January 1, 2022, or amended after January 1, 2022 so long as any amendments do not increase commercial parking requirements. A project may also voluntarily build additional parking that is not shared with the public.

AB 2097 also prohibits a public agency from imposing any new minimum parking requirement on a project to remodel, renovate, or add to a single-family residence, as long as the project does not exceed any floor-to-area ratio restriction the public agency imposes.

AB 2097 includes findings and declarations to support its purposes.

### **State Revenue Impact**

No estimate.

### **Comments**

1. **Purpose of the bill.** According to the author, “It seems that for years California has been trading housing for parking. We’re in the midst of a housing crisis, desperately looking for a solution, and we need to consider all options to reduce the overall cost of housing. There are plenty of communities in our state that have access to high-quality transit, or where cars are underutilized, that need housing far more than they need parking. Yet, many cities in California require new residential or commercial development to provide on-site parking spaces. Often, apartments must include one or two parking spots per unit, and commercial properties must provide one space for every 100-200 square feet (frequently causing more space to be provided for parking than for the business itself). These one-size-fits-all mandates are often imposed even in areas that are close to transit.

“Mandatory parking requirements have led to an oversupply of parking spaces; Los Angeles County alone has 18.6 million parking spaces, or almost two for every resident. Experts believe that this policy encourages car dependence and discourages mass transit usage, increasing vehicle miles traveled. California needs to reduce vehicle miles traveled by 15% in order to meet its SB 32 climate goals, even in a scenario with full vehicle electrification. Mandatory parking requirements also worsen California’s severe housing shortage by raising the cost of housing production. On average, a garage costs \$24,000-\$34,000 per space to build, a cost that is passed on to households regardless of whether they own a car. Additionally, on-site parking takes up space that could otherwise be used for additional apartment units.

“AB 2097 does not prohibit property owners from building on-site parking. Rather, it would give them the flexibility to decide on their own how much on-site parking to provide, instead of requiring them to comply with a one-size-fits-all mandate.”

2. Midnight train to... Kerman? Development generates externalities: impacts to third parties that are not captured in the prices paid for goods and services. Developers have a profit motive to include parking where it helps them sell or rent their properties to willing buyers or renters. Local officials, on the other hand, are elected to represent the interests of all their constituents and to look broadly at how new development might impact their community. For example, concerns over the encroachment of wildfire may prompt some local governments to impose parking requirements to ensure that streets are open for evacuation and emergency response. In other areas, particularly rural communities, public transit may not be a realistic option for many trips, even near major transit stops, due to the distances covered or lack of transit options near the final destination. AB 2097 removes the ability of local governments to take into account the unique needs of their communities. Even the state’s Density Bonus Law, which is one of the main ways the state currently limits local parking requirements, allows a local government to impose higher parking requirements if the local government has funded an independent, jurisdiction-wide parking study in the past seven years. The Committee may wish to consider amending AB 2097 to take into account the differing characteristics of communities and allow local governments more flexibility in imposing parking minimums where warranted.

3. Swing for the fences. Reducing dependence on automobiles is something of a chicken or egg problem: residents have a hard time letting go of their cars until widespread, high quality transit is available, but public agencies face difficulties improving the quality of public transit until the demand is there to pay for it. AB 2097 takes a step towards resolving this dilemma by simply picking as the starting point that local officials shouldn’t require parking near transit, recognizing that there may be a little pain along the way as individuals spend more time looking for parking. This policy is bolstered by research that shows that increasing the time needed to park can provide a significant incentive to use other modes of transportation. Some local governments are considering going further and exploring the concept of parking maximums: caps on the amount of parking that developers can voluntarily include because developers will continue to include parking in their projects where the market demands it. For example, a recent study of the City of Los Angeles’s Transit Oriented Communities (TOC) program found that developers of mixed-income housing under that program included nearly twice as much parking as required. AB 2097 furthers a laudable goal, but may fall short of transformative reductions in how Californians get around.

4. Related legislation. AB 2097 is substantially similar to AB 1401 (Friedman, 2021), which the Governance and Finance Committee approved in 2021 on a vote of 5-0. However, AB 1401, as amended by this Committee, narrowed the radius where parking minimums are prohibited in counties with populations of less than 600,000 and did not include the limitations on the types of residential projects that can qualify. AB 1401 also prohibited public agencies from imposing parking minimums on remodels of single-family homes. AB 1401 was held in the Senate Appropriations Committee.

SB 1067 (Portantino), which the Committee approved at its March 31<sup>st</sup> hearing on a vote of 4-0, prohibits local governments from imposing parking minimums on housing projects near major transit stops, but allows local governments to impose minimums on some projects if the local government makes specified findings and the project does not contain at least 20 percent

affordable units or fewer than 20 units. SB 1067 is currently pending in the Assembly Housing and Community Development Committee.

5. Double-referred. The Senate Rules Committee has ordered a double referral of AB 2097: first to the Senate Governance and Finance Committee to hear issues of local authority; second to the Senate Housing Committee.

6. Charter city. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define “municipal affairs,” the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. AB 2097 says that its statutory provisions apply to charter cities. To support this assertion, the bill includes a legislative finding that it addresses a matter of statewide concern.

7. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 2097 changes the duties of local planning officials, Legislative Counsel says that the bill imposes a new state mandate. AB 2097 disclaims the state's responsibility for providing reimbursement by citing local governments’ authority to charge for the costs of implementing the bill's provisions.

### **Assembly Actions**

Assembly Local Government Committee:	6-2
Assembly Housing and Community Development Committee:	6-1
Assembly Appropriations Committee:	13-3
Assembly Floor:	47-20

### **Support and Opposition** (6/13/22)

#### **Support:**

Carmen Ramirez - Ventura County Supervisor  
 Jim Spering - Solano County Supervisor  
 Mike Wilson - Humboldt County Supervisor  
 John Bauters - City of Emeryville Mayor  
 Lucas Ramirez - Mayor of Mountain View  
 Rick Bonilla - City of San Mateo Mayor  
 Alysa Cisneros - Sunnyvale Vice Mayor  
 Dennis Pocekay - Petaluma Vice Mayor  
 Jen Wolosin - Menlo Park Vice Mayor  
 Alex Fisch - Culver City Councilmember  
 Brian Barnacle - Petaluma City Council Member  
 Colin Parent - LA Mesa Councilmember  
 Glean Davis - City of Santa Monica Councilmember  
 John Erickson - West Hollywood Councilmember  
 Jon Wizard - City of Seaside

Councilmember  
 Kevin McDonnell - Petaluma City Councilmember  
 Lori Droste - City of Berkeley Councilmember  
 Rashi Kesarwani - City of Berkeley Councilmember  
 Zach Hilton - City of Gilroy Council Member  
 350 Bay Area Action  
 350 Humboldt: Grass Roots Climate Action  
 AARP  
 Abundant Housing LA  
 Abundant Housing Los Angeles  
 Active San Gabriel Valley  
 Activesgv  
 Alameda County Transportation Commission  
 Alameda-contra Costa Transit District (ac Transit)

American Planning Association, California Chapter  
Asian Business Association  
CA Coalition for Clean Air  
California Apartment Association  
California Building Industry Association (CBIA)  
California Community Builders  
California Community Builders  
California Downtown Association  
California Hispanic Chamber of Commerce  
California Interfaith Power and Light  
California Native Plant Society  
California Yimby  
Central City Association of Los Angeles  
Circulate San Diego  
City of Redwood City  
City of San Diego  
Civicwell (formerly the Local Government Commission)  
Climate Action Campaign  
Climate Resolve  
Council of Infill Builders  
Defenders of Wildlife  
Diablo Valley for Everyone  
East Bay for Everyone  
East Bay Yimby  
East Bay Young Democrats  
Eden Housing  
Endangered Habitats League  
Fieldstead and Company, INC.  
Fremont for Everyone  
Generation Housing  
Getaround, Inc., a Delaware Corporation  
Greenbelt Alliance  
Grow the Richmond  
Habitat for Humanity California  
Housing Action Coalition  
Independent Hospitality Coalition  
Interfaith Power & Light  
League of Women Voters of California  
Linc Housing  
Lisc San Diego  
Los Angeles Area Chamber of Commerce  
Los Angeles County Business Federation (BIZ-FED)  
Midpen Housing  
Monterey Bay Economic Partnership  
Mountain View Yimby

Napa County Transportation and Planning Agency  
New Way Homes  
Northern Neighbors  
Parkade  
Peninsula for Everyone  
People for Housing - Orange County  
Progress Noe Valley  
Safe Routes Partnership  
San Diego Climate Action Campaign  
San Diego Regional Chamber of Commerce  
San Francisco Bay Area Planning & Urban Research Association (SPUR)  
San Francisco Bay Area Rapid Transit District (BART)  
San Francisco Bay Area Water Emergency Transportation Authority  
San Francisco Yimby  
San Luis Obispo Yimby  
Sand Hill Property Company  
Santa Cruz Climate Action Network  
Santa Cruz County Business Council  
Santa Cruz Yimby  
Santa Monica Chamber of Commerce  
Sequoia Riverlands Trust  
Sierra Business Council  
Sierra Club California  
Silicon Valley Leadership Group  
South Bay Yimby  
South Pasadena Residents for Responsible Growth  
Southside Forward  
Spur  
Streets for All  
Streets for People  
Streets for People Bay Area  
Turner Center for Housing Innovation At the University of California, Berkeley  
The Los Angeles Coalition for The Economy & Jobs  
The Trust for Public Land  
The Two Hundred  
Tmg Partners  
Transform  
Urban Environmentalists  
Urban League of San Diego County  
Westside for Everyone  
Wildlands Network  
Yimby Action  
Yimby Democrats of San Diego County

Opposition:

California Contract Cities Association  
City of Beverly Hills  
City of Carlsbad  
City of Corona  
City of Lafayette  
City of Los Altos  
City of Rancho Palos Verdes  
City of San Marcos  
City of Santa Clarita  
City of Torrance  
City of Tustin  
City/County Association of Governments of San Mateo County  
Hills 2000 Friends of The Hills  
League of California Cities  
Marin County Council of Mayors and Council Members (MCCMC)  
Resident Information Resource of Santa Monica  
Riviera Homeowners Association  
State Building and Construction Trades Council of California  
Town of Truckee  
United Neighbors  
Village At Sherman Oaks Business Improvement District

**-- END --**