

HOUSING PLAN UPDATE

Technical Paper

DATE: March 4, 2015

This technical paper helps summarize some of the key guidelines that need to be considered when updating a local Housing Plan. It accounts in more detail and describes the process associated with Housing Element updates and/or developing and preserving an adequate supply of housing for seniors, workers, families and other community members.

This document should be utilized by the public and decision-makers to better understand the scope and intent of Housing Element Law and its influences over a Housing Plan Update process. However, with Housing Element Law evolving strengthening and growing more complex over more than four decades, along with related case law, it is impossible for this document to address every issue.

I. WHY HOUSING PLANS MATTER?

Housing Element Law, passed in its original form in 1969, requires that all cities and counties in California to plan for their residential needs by including housing as an element of their comprehensive plans. The State has an investment in this because housing is a basic human need. When a Housing Plan is revised, the update process provides a vehicle for establishing land-use strategies reflective of changing needs, resources, and conditions. Plan updates can also be used by the community to re-examine how housing programs or services are delivered to the community.

II. HOW THE PROCESS WORKS [Government Code, Sections 65580 - 65589.8]

The Housing Plan (or element) is the only part of local general plans that is subject to substantial oversight by the State. The State's interest in local housing elements has been justified by the fact that housing is enshrined in State law as a matter of "vital statewide importance."

"The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every California, including farmworkers, is a priority of the highest order." – California Legislature

The State's purpose in mandating a Housing Plan per Government Code, Section 65581 is to ensure that each local agency has a strategy for how they will contribute to the overall state

housing goal. This portion of the law asks cities to plan for the needs of a wider region, not just those of current city residents. However, having an updated plan is also extremely important for local cities and counties. Overall, Housing Plans serve as a strategy to help cities prepare for the future.

One of the most significant requirements is often called a “fair-share” law, with the term generally referring to a regional process by which each local community works together to accommodate a fair proportion of future housing needs. Regional councils of governments (such as SANDAG) work from State’s estimates of regional housing need and assigns housing goals, or allocation, to each city and unincorporated county area in their region. The Regional Housing Need Allocation (RHNA) is a state-mandated process, implemented by SANDAG, which identifies the total number of housing units that each jurisdiction must accommodate in a Housing Plan. The State recently identified the total housing need for the San Diego region for an eight-year period. SANDAG then developed a methodology to distribute this need to local agencies. Each local agency must then create land use plans that accommodate the minimum amounts of housing unit goals/allocations. In doing so, a plan update can provide a mechanism to adopt new efficient land-use strategies such as infill, mixed-use, or revitalization; or address climate change and the reduction of greenhouse gas emissions. This allocation process is covered in more detail in Attachment “HEU-1”.

The overall allocation process reflects a need for cooperation between both public and private sectors to expand housing opportunities which will allow for new housing development that benefits everyone in the community, such as a greater mix of housing types and choices. It allows local governments to maintain control over where and what type of development should occur in their communities, while allowing the private sector to meet market demand. Government Code Section 65589 provides that there is no requirement that a city must spend revenue to build potential housing identified in the housing element.

Like the rest of the San Diego region, most new housing will be attached and multifamily types. This housing will predominately be sold or rented at market rates and will not be built by the City. Private property owners will decide whether to build housing. As is the case today, a small amount of the housing may be subsidized to assist a portion of those in need of assistance. The City’s Housing Plan Update will consider additional ways to promote new housing at more attainable prices.

III. HOUSING ELEMENT ADOPTION [Government Code Section 65585]

Once a local update has been drafted, the Department of Housing and Community Development (HCD) reviews it to gauge whether the plan can enable the targeted number of units – including specific amounts of housing for households of “very low-“, “low-“, “moderate“, and “above moderate” incomes. If so, HCD certifies the agency’s Housing Plan. Government Code Section 65585 prescribes the following steps in adopting a Housing Plan:

1. submit a draft to the Department prior to adoption;
2. consider the Department’s findings prior to adoption;

3. revise and adopt the element to comply with the statute or adopt the draft without changes and specify in the resolution the findings that explain the reasons the housing element complies with the statute; and
4. promptly submit the adopted housing element to HCD.

Attachment “HEU-2” represents the workflow or process of the HCD review and certification process. When a local government fails to adopt an updated Housing Plan by the deadline, or does not comply with the law, the city or county is regarded as noncompliant and is subject to penalties. These penalties include:

- Legal action – State law provides for a petitioner requesting a hearing or trial. If a petitioner prevails (i.e. the Housing Plan does not substantially comply with law), then the ordered judgment can suspend building permits until the agency is in compliance. (Refer to Attachment “HEU-3”).
- Financing impacts – noncompliant communities are also ineligible for certain affordable housing programs administered by HCD (refer to Attachments “HEU-4” and “HEU-5”). Also, an agency may not qualify for many grants available through a regional council of governments (i.e. SANDAG).
- Carryover provision – State law mandates that previously identified housing needs (RHNA) not accommodated by an agency in one planning period be carried over to the next planning cycle. (For this and other consequences, refer to Attachment “HEU-6”).

IV. HOUSING ELEMENT CONTENT [Government Code, Section 65583]

Under State Housing Element Law, the Housing Plan must include a discussion of what resources the agency currently holds, as well as identify the current and future needs of the community (Attachment HEU-7”), including the allocated amount from the region’s future housing need. This can be broken down into six housing-related categories, which are summarized below.

1. *Adequate Sites Inventory [Government Code, Sections 65583(a)3 & 65583(c)1]*

A local agency must identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services/facilities to accommodate the city’s share of regional housing need for each income level. Government Code, Section 65583.2(c) establishes the minimum densities needed to potentially provide housing unit for low- and very low-income households (i.e. 20 units per acre density in rural/suburban areas and 30 units per acre in regional metropolitan areas.

2. *Affordable Housing [Government Code, Sections 65583(a)7 & 65583(c)2]*

Must show how it intends to assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

3. Mitigation of Constraints [Government Code, Sections 65583(a)5 & 65583(c)3]

Address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities.

4. Conservation [Government Code, Section 65583(c)4]

Must conserve and improve the condition of the existing affordable housing stock.

5. Equal Housing Opportunities [Government Code, Section 65583(c)5]

Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, family status, or disability.

6. At-Risk Housing [Government Code, Section 65583(a)9]

Must preserve for lower income households the assisted housing developments that are at risk of becoming homeless.

Because Housing Element Law is complex and has a large range of scope, HCD regularly publishes technical assistance papers to help clarify the intent of statutes and requirements. Attachment “HEU-8” identifies some of the key legislative requirements that need to be addressed in updated Housing Plans.

Pursuant to Government Code, Section 65583(b), State Law requires a statement of the community’s goals, quantified objectives, and policies related to the maintenance, preservation, improvement, and development of housing. Under Section 65583(c), a local agency must set forth a schedule of actions, each with a timeline for implementation to ensure beneficial steps are accomplished during the planning period, including the following:

- Identify actions that will make sites available with appropriate zoning and development standards to accommodate the City’s RHNA and assist in the development of housing to meet the needs of different income households.
- Address and remove governmental constraints to the maintenance, improvement, and development of housing.
- Conserve and improve the condition of the existing affordable housing stock.
- Promote housing opportunities for all persons regardless of race, religion, sex, marital status, or disability.
- Identify who is responsible for the implementation of the various actions.
- Include a diligent effort to achieve public participation.

For the complete record of the Housing Element Law, as of this writing, see Attachment “HEU-9”.

List of Attachments

Attachment HEU 1 – RHNA Allocation Process and Methodology
Attachment HEU 2 – Housing Element Adoption Chart
Attachment HEU 3 – Case Law Examples
Attachment HEU 4 – HCD, Housing Element Incentives (2009)
Attachment HEU 5 – HCD's Loans, Grants and Enterprise Zone Programs (2015)
Attachment HEU 6 – Additional Consequences (SB 357 and AB 1233)
Attachment HEU 7 – Housing Element Law - Needs Assessment
Attachment HEU 8 – Housing Element-Related Laws and HCD Technical Assistance Papers
Attachment HEU 9 – Government Code – ARTICLE 10.6
Attachment HEU10 – HCD, Housing Element Update Guidance Paper (2012)
Attachment HEU11 – HCD, Building Blocks for Housing Element Updates (2015)
Attachment HEU12 – Housing Element Best Practices

ATTACHMENT “HEU-1”

RHNA ALLOCATION PROCESS AND METHODOLOGY

Regional Housing Needs Allocation (RHNA) [Government Code, Section 65584]

Government Code, Section 65584 requires that regional council of governments (COGs) establish regional housing needs allocations to accommodate future housing for each region. The RHNA process begins with the State Department of Housing and Community Development (HCD) allocating a region's share of the statewide housing need (RHNA Determination) to its' COG based on Department of Finance population projections and population forecasts used in preparing regional transportation plans. For the 2013-2020 Housing Element Planning Cycle, the State projected San Diego County region's growth for an 11-year period (2010-2020). Upon receiving the allocation, the COG develops a plan to allocate the housing throughout the region and to each member agency that falls within the region (Regional Housing Needs Assessment Plan). The RHNA Plan is required to promote the following objectives (Government Code Section 65584(d)):

- Increase the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner;
- Promote infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns;
- Promote an improved intraregional relationship between jobs and housing; and
- Balancing distribution of households by income category

The process begins by COG's surveying their member agencies for existing and projected information on jobs and housing, market demands, etc. In addition to local government participation in the development of the methodology for the RHNA, Government Code Section 65584.04(c) also requires public participation, including at least on public hearing to receive oral and written comments on the proposed methodology.

The SANDAG Board of Directors adopted the final RHNA Plan for the fifth Housing Element Cycle (January 1, 2013 – December 31, 2020) on October 28, 2011. The RHNA Plan allocates housing needs in four income categories (“very low”, “low”, “moderate”, and “above moderate”) for each agency. Per Government Code Section 65583, all cities must accommodate their RHNA allocations in their Housing Elements.

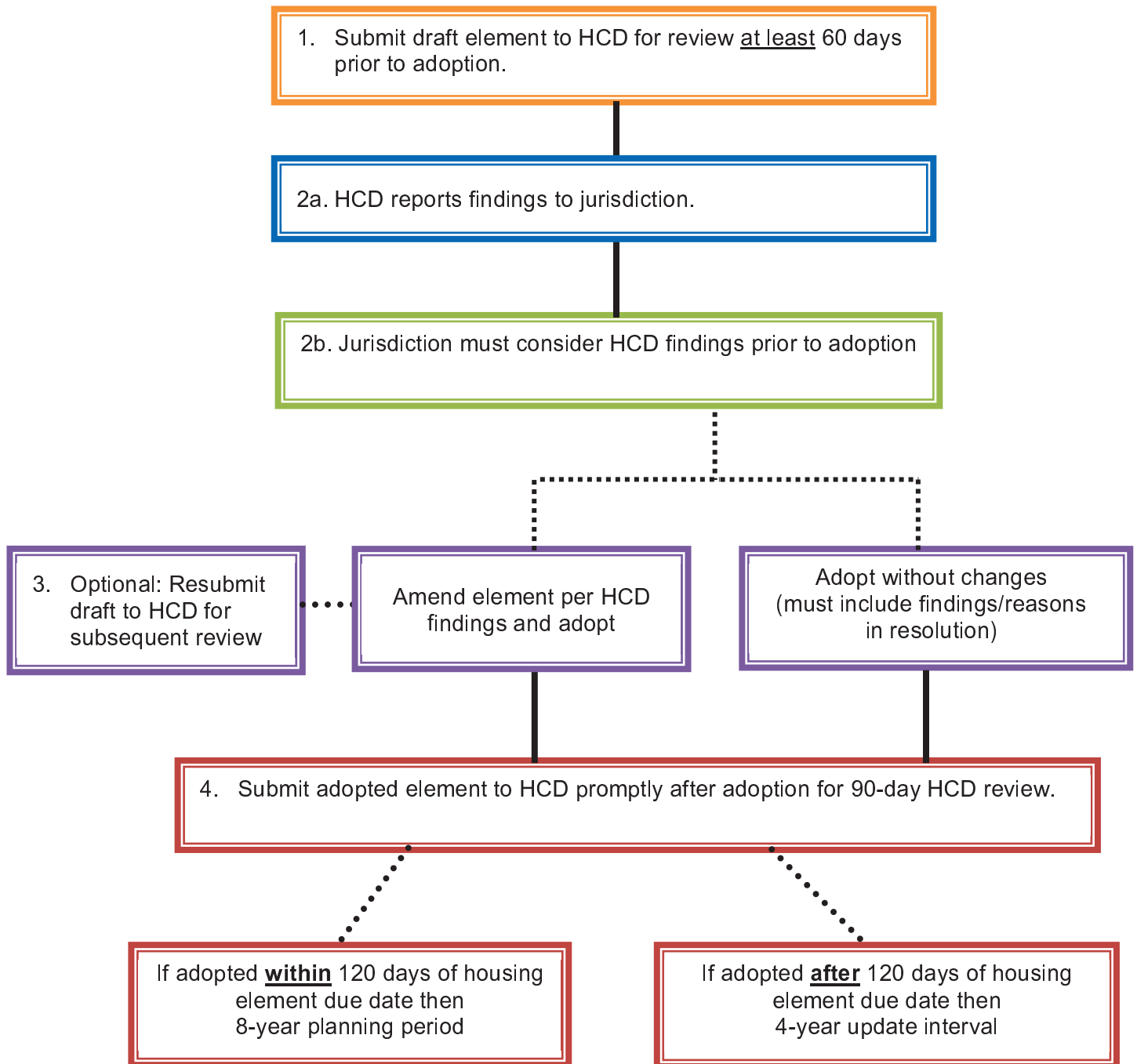
Related Documents:

- Regional Housing Needs Assessment Plan (RHNA Plan)
<http://www.sandag.org/index.asp?projectid=189&fuseaction=projects.detail>
- 2050 Regional Transportation Plan (RTP)
<http://www.sandag.org/index.asp?projectid=349&fuseaction=projects.detail>

ATTACHMENT “HEU-2”

HOUSING ELEMENT ADOPTION CHART

Review and Adoption Steps (Government Code Section 65585)



ATTACHMENT “HEU-3”

CASE LAW EXAMPLES

CITY-COUNTY HOUSING ELEMENT LITIGATION¹

COUNTIES

COUNTY OF HUMBOLDT

SUED BY HUMBOLDT SUNSHINE, INC., A COALITION OF DEVELOPERS, BECAUSE THE HOUSING ELEMENT WAS OUT OF COMPLIANCE. HOUSING ADVOCACY GROUP HOUSING FOR ALL INTERVENED.

THE COUNTY SETTLED WITH HOUSING FOR ALL IN 2011. THE SETTLEMENT PROVIDED A TIMELINE FOR COMPLETION OF THE MULTIFAMILY REZONING EFFORT IN ORDER TO AVOID A COURT-IMPOSED BUILDING MORATORIUM. THE COUNTY DID NOT OBTAIN ITS RECERTIFICATION FOR ITS HOUSING ELEMENT BY AUG. 15, 2011, SO THE HUMBOLDT COUNTY SUPERIOR COURT IMPOSED A BUILDING MORATORIUM THAT TOOK EFFECT IN OCTOBER 2011.

COUNTY OF MADERA

LAWSUIT BROUGHT BY CALIFORNIA RURAL LEGAL ASSISTANCE OVER 20 YEARS AGO FOR FAILING TO ADOPT AN UPDATED HOUSING ELEMENT WITHIN THE APPLICABLE TIME PERIOD.

COURT ORDERED COUNTY TO PAY \$150,000 IN ATTORNEYS’ FEES.

COUNTY OF MENDOCINO

LAWSUIT BROUGHT BY LEGAL SERVICES AND CALIFORNIA AFFORDABLE HOUSING LAW PROJECT.

STATE HCD REQUIRED COUNTY TO REZONE 40 ACRES FOR AFFORDABLE HOUSING. COUNTY SITES WERE NOT PHYSICALLY OR REALISTICALLY CAPABLE OF ACCOMMODATING AFFORDABLE HOUSING.

SETTLEMENT IMPLEMENTED A DEVELOPMENT MORATORIUM IF HCD DID NOT CERTIFY THE COUNTY’S HOUSING ELEMENT.

ATTORNEYS’ FEES AWARDED FOR PRE-LITIGATION WORK BASED ON PUBLIC BENEFIT THEORY.

HCD HAS CONDITIONALLY CERTIFIED THE COUNTY’S CURRENT HOUSING ELEMENT, BUT THE COURT MONITORS ONGOING COUNTY COMPLIANCE.

¹ BASED ON LIST ORIGINALLY PREPARED BY SANTA BARBARA COUNTY IN 2007 AND UPDATED BY GOLDFARB & LIPMAN LLP BASED ON AVAILABLE INFORMATION; NOT ALL OUTCOMES ARE KNOWN, AND NOT ALL CASES ARE INCLUDED. ITEMS MODIFIED BY GOLDFARB & LIPMAN ARE HIGHLIGHTED.

COUNTY OF NAPA

LAWSUIT BROUGHT IN 2004 BY CALIFORNIA RURAL LEGAL ASSISTANCE AND PUBLIC ADVOCATES, INC.

STIPULATED JUDGMENT: THE COUNTY AGREED TO (1) MAKE ADEQUATE PROVISION FOR LOW INCOME AND FARMWORKER HOUSING IN ITS GENERAL PLAN, (2) IDENTIFY AND REZONE SITES TO ACCOMMODATE AFFORDABLE HOUSING, AND (3) ALLOCATE FUNDS FROM ITS TRUST FUND FOR AFFORDABLE HOUSING.

COURT ORDERED MORATORIA ON DEVELOPMENT. THE COUNTY WAS ORDERED TO PAY ATTORNEYS' FEES.

A SECOND LAWSUIT WAS FILED BY LATINOS UNIDOS DEL VALLE DE NAPA Y SOLANO (REPRESENTED BY DAVID GRABILL, CRLA, PUBLIC INTEREST LAW PROJECT, AND A WASHINGTON D.C. LAW FIRM) IN SEPTEMBER 2009 AFTER COUNTY ADOPTED NEW HOUSING ELEMENT IN JUNE 2009. COURT OF APPEAL IN AN UNPUBLISHED DECISION FOUND HOUSING ELEMENT TO BE IN COMPLIANCE WITH STATE LAW IN EFFECT IN 2008 (WHICH REQUIRED SITE SPECIFICITY).

COUNTY OF SACRAMENTO

LAWSUIT BROUGHT BY LEGAL SERVICES BECAUSE THE COUNTY FAILED TO IMPLEMENT ITS HOUSING ELEMENT.

IN 1996, THE COURT RULED AGAINST THE COUNTY, RESULTING IN A STIPULATED JUDGMENT TO IMPLEMENT THE HOUSING ELEMENT. SUBSTANTIAL ATTORNEYS' FEES AWARDED.

THE COURT ORDERED THE COUNTY TO ADOPT UPGRADED DEVELOPMENT STANDARDS FOR MULTIFAMILY PROJECTS AND ENACT AMENDMENTS TO THE ZONING CODE TO ENSURE THAT MULTIFAMILY PROJECTS AND EMERGENCY SHELTERS ARE REVIEWED THROUGH A SIMPLIFIED PROCESS. (AFFORDABLE HOUSING LAW PROJECT STATES 430 ACRES REZONED TO ACCOMMODATE 7,000 UNITS.)

THE COUNTY SELF-IMPOSED BUILDING MORATORIA IN THE VACANT LAND INVENTORY, EXCEPT MULTIFAMILY RESIDENCES ON LANDS ZONED LIMITED COMMERCIAL OR SHOPPING CENTER.

LATER, THE COUNTY VOLUNTARILY ADOPTED AN INCLUSIONARY ZONING ORDINANCE.

THE COUNTY ADOPTED A NEW HOUSING ELEMENT IN 2008, WHICH RENDERED THE SETTLEMENT MOOT.

COUNTY OF SANTA CRUZ

RAMIREZ-MENDOZA V. COUNTY OF SANTA CRUZ (SUPER. CT. SANTA CRUZ COUNTY, 1994, No. 129871).

LAWSUIT BROUGHT BY CALIFORNIA RURAL LEGAL ASSISTANCE AND CALIFORNIA AFFORDABLE HOUSING LAW PROJECT IN 1994. THE COUNTY CLAIMED IT COULD MEET ALL OF ITS LOW-INCOME HOUSING NEEDS THROUGH SECONDARY UNITS. THE SUIT WAS DISMISSED.

SECOND LAWSUIT BROUGHT BY CALIFORNIA RURAL LEGAL ASSISTANCE AND CALIFORNIA AFFORDABLE HOUSING LAW PROJECT IN 2004. THE SUPERIOR COURT FOUND THAT THE COUNTY HAD NOT COMPLIED WITH STATE LAW IN TERMS OF FULFILLING THE REQUIREMENTS THAT DEVELOPMENT BY-RIGHT BE ALLOWED ON SITES DESIGNATED TO MEET THE RHNA.

COUNTY ORDERED TO ADOPT A VALID HOUSING ELEMENT WITHIN 120 DAYS. THE COUNTY REZONED MORE THAN 30 ACRES OF LAND AT 20 UNITS/ACRE SUITABLE FOR BUILDING AFFORDABLE HOUSING, ALLOCATED \$15 MILLION TOWARDS THOSE AFFORDABLE HOUSING PROJECTS, AND INCLUDED APPROPRIATE LANGUAGE REGARDING THE BY-RIGHT REQUIREMENT.

COUNTY OF SONOMA

SUED BY SONOMA COUNTY HOUSING ADVOCACY GROUP IN 1998.

COURT ORDERED MORATORIUM ON ALL DEVELOPMENT UNTIL THE COUNTY ATTAINED A STATE CERTIFIED HOUSING ELEMENT. SUBSEQUENT STIPULATION ALLOWED APPROVAL OF PENDING SUBDIVISIONS AND ZONE CHANGES.

IN RESPONSE TO THE LEGAL ACTION, THE COUNTY REVISED ITS PLAN BY IDENTIFYING SITES THAT WERE PREVIOUSLY ZONED FOR COMMERCIAL OR INDUSTRIAL USES. THE COUNTY'S HOUSING ELEMENT WAS APPROVED BY HCD.

THE COUNTY WAS ORDERED TO PAY OVER \$300,000 IN ATTORNEYS' FEES.

COUNTY OF SUTTER

LAWSUIT BROUGHT BY CALIFORNIA RURAL LEGAL ASSISTANCE.

COURT ORDERED CONSENT DECREE REQUIRING THE COUNTY IDENTIFY ADEQUATE SITES TO ACCOMMODATE AFFORDABLE HOUSING.

COUNTY OF YUBA

IVORY V. COUNTY OF YUBA (SUPER. CT. YUBA COUNTY, 1995, No. 054694).

LAWSUIT BROUGHT BY CALIFORNIA RURAL LEGAL ASSISTANCE IN 1993 CLAIMING THE HOUSING ELEMENT WAS OUT OF COMPLIANCE WITH THE STATE'S HOUSING ELEMENT LAW.

THE COURT ORDERED DEFENDANT TO AMEND THE GENERAL PLAN'S HOUSING ELEMENT WITHIN 120 DAYS TO INCLUDE ANALYSIS OF "AT-RISK" ASSISTED HOUSING UNITS, ANALYSIS OF CONSTRAINTS TO THE DEVELOPMENT OF AFFORDABLE HOUSING, AND A PLAN TO MITIGATE THOSE CONSTRAINTS, INCLUDING INFRASTRUCTURE CAPACITY LIMITATIONS. IN ADDITION, THE COURT ORDERED DEFENDANT TO REPEAL A COUNTY ORDINANCE SPECIFYING MOBILE HOME SIDING AND ROOFING REQUIREMENTS. FINALLY, THE COURT ENJOINED DEFENDANT FROM IMPLEMENTING THE PLUMAS LAKE SPECIFIC PLAN UNTIL AMENDED TO BE CONSISTENT WITH THE AMENDED HOUSING ELEMENT.

COUNTY WAS ORDERED TO PAY OVER \$77,000 IN ATTORNEYS' FEES.

CITIES

CITY OF ALAMEDA

COLLINS V. CITY OF ALAMEDA. EAST BAY REG'L PARK DIST. V. CITY OF ALAMEDA

SUED IN FEBRUARY 2007. PLAINTIFF OWNED 9 ACRES ALONG THE WATER AND WISHED TO DEVELOP HIGH DENSITY RESIDENTIAL UNITS ON A PORTION ZONED INDUSTRIAL AND DESIGNATED AS POTENTIAL PUBLIC PARK SPACE.

THE ALLEGED INADEQUACY OF THE HOUSING ELEMENT WAS ONE PART OF THE LAWSUIT. PLAINTIFF ARGUED THAT THE CITY'S ZONING WAS INCONSISTENT WITH HOUSING ELEMENT LAW BECAUSE THE ZONING ORDINANCE PROHIBITED PLAINTIFF FROM DEVELOPING HIGH DENSITY RESIDENCES, WHICH WERE NEEDED TO SATISFY HOUSING ELEMENT REQUIREMENTS.

THE CASE WAS SETTLED IN 2010. THE CITY APPROVED A LESS DENSE PROJECT FOR 182 UNITS.

IN 2012 THE CITY ADOPTED A HOUSING ELEMENT THAT WAS APPROVED BY HCD. THE CITY HAS NOW BEEN SUED BY THE EAST BAY REGIONAL PARK DISTRICT REGARDING THE REZONING OF A SITE FOR 'BY RIGHT' HOUSING ADJACENT TO DISTRICT PROPERTY. THE CASE WAS SETTLED WHEN THE PARK DISTRICT PURCHASED THE PROPERTY AT ISSUE.

CITY OF ALBANY

AFFORDABLE HOUSING ADVOCATES V. CITY OF ALBANY

SUIT BROUGHT IN 2013 BY ALAMEDA COUNTY LEGAL AID AND THE PUBLIC INTEREST LAW PROJECT, ALLEGING THAT CITY HAD NOT REVISED ITS GENERAL PLAN SINCE 1992. CITY ADOPTED NEW HOUSING ELEMENT IN MARCH 2014, WHICH WAS FOUND BY HCD TO COMPLY WITH STATE LAW. LAWSUIT AMENDED TO CHALLENGE CITY'S AND HCD'S INTERPRETATION OF CARRYOVER PROVISIONS IN AB 1233 (G.C. SECTION 65584.09).

SUPERIOR COURT FOUND HOUSING ELEMENT TO COMPLY WITH STATE LAW AND DENIED PETITION FOR WRIT OF MANDATE ON JANUARY 22, 2015.

CITY OF BENICIA

LAWSUIT BROUGHT BY CALIFORNIA AFFORDABLE HOUSING LAW PROJECT.

STATE HCD CERTIFIED THE CITY'S HOUSING ELEMENT "BASED ON PAPER." CAHLP TOOK PICTURES OF SITES THE CITY IDENTIFIED. SOME WERE UNDER WATER; OTHER WERE ALREADY DEVELOPED. HCD RESCINDED THEIR CERTIFICATION.

CITY SETTLED AFTER 6 MONTHS OF LITIGATION. THE CITY WAS ORDERED TO PAY \$90,000 IN ATTORNEYS' FEES.

A NEW CITY COUNCIL REFUSED TO APPROVE THE AGREEMENT, APPEALED THE COURT'S JUDGMENT THREE TIMES, AND LOST ON EVERY APPEAL. THE CITY EXPENDED \$500,000 IN ATTORNEYS' FEES.

SETTLEMENT EXCEEDED THE REQUIREMENTS OF STATE LAW.

CITY OF BUELLTON

LAWSUIT BROUGHT BY CALIFORNIA RURAL LEGAL ASSISTANCE ON BEHALF OF LOW-INCOME LATINO RESIDENTS OF AFFORDABLE HOUSING.

SETTLED THE CASE FOR \$360,000 IN ATTORNEYS FEES. THE SETTLEMENT ALSO REQUIRED THE CITY TO AMEND ITS GENERAL PLAN AND ZONING ORDINANCE TO ENSURE ADEQUATE SITES TO ACCOMMODATE REGIONAL HOUSING NEEDS FOR LOW- AND VERY LOW-INCOME HOUSEHOLDS; AMEND THE ZONING ORDINANCE TO PERMIT HOUSING FOR SPECIAL-NEEDS POPULATIONS INCLUDING MIGRANT FARMWORKERS; REQUIRE AT LEAST 15 PERCENT OF ALL NEW RESIDENTIAL UNITS TO BE AFFORDABLE HOUSING AND AT LEAST 40 PERCENT OF THESE UNITS TO BE VERY LOW-INCOME UNITS; INCREASE THE REDEVELOPMENT HOUSING SET ASIDE TO 25 PERCENT OF ANNUAL TAX INCREMENT; AND AMEND ITS REDEVELOPMENT PLAN TO COMPLY WITH RELOCATION AND REPLACEMENT HOUSING REQUIREMENTS.

CITY OF CALEXICO

SUED IN 2009 AND 2010 BY A PRIVATE DEVELOPER WHO ARGUED RECENTLY ADOPTED HOUSING ELEMENT WAS INADEQUATE. BOTH LAWSUITS WERE EITHER DISMISSED OR SETTLED PRIOR TO GOING TO TRIAL.

CITY OF CARLSBAD

FRIENDS OF AVIARA V. CITY OF CARLSBAD (2012) 210 CAL. APP. 4TH 1103.

RESIDENTS SUED THE CITY ALLEGING THAT THE REZONING PROGRAM IN THE HOUSING ELEMENT WAS INCONSISTENT WITH THE CITY'S GENERAL PLAN. THE COURT HELD THAT THE HOUSING ELEMENT STATUTE ANTICIPATED THAT THERE COULD BE INCONSISTENCIES BETWEEN THE HOUSING ELEMENT AND GENERAL PLAN, SO LONG AS THE HOUSING ELEMENT CONTAINED A TIMELINE FOR RESOLVING THE INCONSISTENCIES.

TOWN OF CORTE MADERA

LAWSUIT BROUGHT BY LEGAL AID AND PUBLIC ADVOCATES, INC. FOR NOT HAVING A CERTIFIED HOUSING ELEMENT.

THE TOWN SETTLED THE LAWSUIT ON THE CONDITION THAT THE TOWN ADOPT A STATE CERTIFIED HOUSING ELEMENT AND IMPOSE A FEE ON COMMERCIAL DEVELOPMENT TO FUND AFFORDABLE HOUSING. IT ALSO CREATED THREE NEW ZONING DISTRICTS THAT EITHER REQUIRED AFFORDABLE HOUSING OR OFFERED INCENTIVES FOR AFFORDABLE UNITS. THE TOWN ALSO AGREED TO SIMPLIFY PROCEDURES AND WAIVE MANY FEES FOR AFFORDABLE HOUSING DEVELOPERS.

COURT ISSUED INJUNCTION PROHIBITING THE TOWN FROM APPROVING ANYTHING BUT AFFORDABLE HOUSING DEVELOPMENT ON 10 KEY SITES UNTIL IT ATTAINED CERTIFICATION.

THE HOUSING ELEMENT WAS UPDATED AND CERTIFIED BY HCD IN 2011.

THE TOWN WAS ORDERED TO PAY \$100,000 IN ATTORNEYS' FEES.

CITY OF ENCINITAS

HERNANDEZ V. CITY OF ENCINITAS (1994) 28 CAL. APP. 4TH 1048.

THE CITY OF ENCINITAS WAS SUED BY SIX LOW-INCOME CITY RESIDENTS ALLEGING THAT ITS HOUSING ELEMENT FAILED TO CONFORM WITH STATE LAW. THE COURT FOUND THAT THE HOUSING ELEMENT SUBSTANTIALLY CONFORMED WITH STATE LAW, INCLUDING DESIGNATING ADEQUATE SITES AND ADEQUATELY ANALYZING FARMWORKER AND HOMELESS NEEDS.

CITY OF FOLSOM

LAWSUIT BROUGHT BY LEGAL SERVICES ALLEGING THAT CITY DID NOT HAVE A VALID HOUSING ELEMENT.

A STIPULATED JUDGMENT REQUIRED THE CITY TO REZONE 128 ACRES FOR AFFORDABLE HOUSING, TO CREATE INCENTIVES FOR DEVELOPERS, AND TO CREATE AN AFFORDABLE HOUSING TRUST FUND. CITY INCREASED RDA PERCENTAGE FOR HOUSING TO 25%. EMERGENCY SHELTERS WERE ALLOWED BY-RIGHT.

CITY WAS AGAIN SUED IN 2011 WHEN IT REPEALED ITS MANDATORY INCLUSIONARY ORDINANCE. PETITIONER'S CONTENTION WAS THAT THE CITY WAS REQUIRED TO AMEND ITS HOUSING ELEMENT WHEN IT REPEALED THE ORDINANCE AS IT HAD LISTED IN ITS QUANTIFIED OBJECTIVES SECTION UNITS ARISING FROM THE IHO.

THE COURT HELD THAT THE REPEAL OF THE INCLUSIONARY ORDINANCE WAS INVALID AS INCONSISTENT WITH ITS ADOPTED HOUSING ELEMENT. A NOTICE OF APPEAL HAS BEEN FILED; THE CASE HAS BEEN ORDERED TO MEDIATION.

CITY OF FREMONT

LAWSUIT BROUGHT BY CALIFORNIA AFFORDABLE HOUSING LAW PROJECT AND LAW CENTER FOR FAMILIES IN 2002.

SETTLEMENT COMMITTED THE CITY TO (1) REZONE 286 ACRES FOR MULTI-FAMILY HOUSING AND PLANNED DEVELOPMENT TO MEET AFFORDABLE HOUSING NEEDS, (2) IDENTIFY SITES FOR BUILDING HOUSING THAT IS AFFORDABLE TO LOW AND VERY LOW INCOME HOUSEHOLDS, AND (3) SIGNIFICANTLY MODIFY ITS HOUSING ELEMENT TO REMOVE BARRIERS AND BETTER PLAN FOR AFFORDABLE HOUSING.

ATTORNEYS FEES APPROXIMATELY \$160,000.

CITY OF GILROY

FONSECA V. CITY OF GILROY (2007) 148 CAL. APP. 4TH 1174.

LAWSUIT BROUGHT BY CALIFORNIA AFFORDABLE HOUSING LAW PROJECT, CALIFORNIA RURAL LEGAL ASSISTANCE, AND PUBLIC ADVOCATES, INC.

COURT RULED THAT GILROY'S GENERAL PLAN SUBSTANTIALLY COMPLIED WITH **FORMER** HOUSING ELEMENT LAW – THE LAW THAT WAS IN EFFECT WHEN GILROY ADOPTED ITS HOUSING ELEMENT. (PRIOR TO 2004, THE LAW DID NOT REQUIRE SITE SPECIFICITY.)

CITY OF HEALDSBURG

LAWSUIT BROUGHT BY SONOMA COUNTY HOUSING ADVOCACY GROUP AND CALIFORNIA RURAL LEGAL ASSISTANCE IN 1993.

SETTLEMENT AGREEMENT REQUIRED THE CITY TO REZONE PARCELS, ANNEX OTHERS, AND ENACT ZONING ORDINANCES TO ENCOURAGE AFFORDABLE HOUSING.

THE CITY WAS ORDERED TO PAY ATTORNEYS' FEES OF \$75,000.

CITY OF LINCOLN

LAWSUIT BROUGHT BY LEGAL SERVICES.

COURT ORDERED **MORATORIA** ON ALL DEVELOPMENT UNTIL THE CITY ATTAINED A STATE CERTIFIED HOUSING ELEMENT.

NO CURRENTLY PENDING HOUSING LITIGATION OR COURT ORDER AGAINST THE CITY.

CITY OF MENLO PARK

LAW SUIT BROUGHT IN 2012 BY PUBLIC ADVOCATES, INC. AND THE PUBLIC INTEREST LAW PROJECT REPRESENTING PENINSULA INTERFAITH ACTION, UNITED HABITAT PROGRAM, AND YOUTH UNITED FOR COMMUNITY ACTION FOR NOT ADOPTING HOUSING ELEMENT SINCE 1992.

THE CITY AGREED TO A SETTLEMENT IN MAY 2012, INCLUDING ADOPTION OF A VALID HOUSING ELEMENT BY MARCH 2013, IMPLEMENTING ANY REQUIRED REZONING, AND GIVING PRIORITY TO NON-PROFIT HOUSING DEVELOPERS IN ALLOCATING LOCAL FUNDS.

CITY OF MISSION VIEJO

MEJIA V. CITY OF MISSION VIEJO

LAW SUIT BROUGHT IN 2006 BY PUBLIC LAW CENTER, CALIFORNIA AFFORDABLE HOUSING LAW PROJECT OF THE PUBLIC INTEREST LAW PROJECT, AND LEGAL AID SOCIETY OF ORANGE COUNTY ALLEGING THE CITY'S HOUSING ELEMENT FAILED TO SUBSTANTIALLY COMPLY WITH STATE LAW AND THE CITY HAD FAILED TO IMPLEMENT OR AMEND ITS HOUSING ELEMENT, AFTER HCD DE-CERTIFIED THE CITY'S HOUSING ELEMENT BECAUSE THE CITY DID NOT REZONE SITES TO ACCOMMODATE 94 LOWER INCOME UNITS, AND THE CITY REJECTED AN AFFORDABLE RENTAL HOUSING PROPOSAL FOR ONE OF THOSE SITES IN 2004 WHICH WOULD HAVE MET THE CITY'S OUTSTANDING RHNA FOR LOWER INCOME UNITS.

COURT ISSUED A WRIT OF MANDATE ORDERING THE CITY TO AMEND ITS HOUSING ELEMENT WITHIN 120 DAYS TO IDENTIFY ADEQUATE SITES TO ACCOMMODATE THE IMMEDIATE DEVELOPMENT OF 75 VERY LOW- AND 19 LOW-INCOME HOUSING UNITS TO MEET THE CITY'S OUTSTANDING REGIONAL HOUSING NEED OF 94 UNITS AND BRING THE HOUSING ELEMENT INTO SUBSTANTIAL COMPLIANCE WITH STATE LAW. THE COURT ALSO ORDERED **MORATORIA** ON THE 3 SITES THE CITY HAD IDENTIFIED BUT NOT REZONED FOR AFFORDABLE HOUSING.

THE CITY AMENDED ITS HOUSING ELEMENT AND THE COURT APPROVED IT AS IN COMPLIANCE WITH STATE LAW.

THE CITY PAID OVER \$80,000 IN ATTORNEYS' FEES.

CITY OF MONTE SERENO

CITY SUED IN 2012 BY DEVELOPER ALLEGING THAT HIS PROPERTY WAS REQUIRED TO BE REZONED PURSUANT TO A POLICY IN THE CITY'S HOUSING ELEMENT. THAT PORTION OF THE CASE WAS DISMISSED. OTHER CLAIMS ARE PENDING IN SANTA CLARA SUPERIOR COURT.

CITY OF MURRIETA

DEVELOPER FILED PETITION FOR WRIT OF MANDATE IN 2008 TO ORDER CITY TO PREPARE OVERDUE HOUSING ELEMENT. CITY ADOPTED ITS HOUSING ELEMENT IN JUNE 2011 AND PREVAILED ON THE WRIT OF MANDATE ACTION IN SUPERIOR COURT.

CITY OF OXNARD

GUTIERREZ V. CITY OF OXNARD

THE CITY ADOPTED A PLAN FOR A GOLF COURSE AND A RELATED PREZONING ORDINANCE, WHICH PERMITTED A GOLF COURSE, A SCHOOL, 2 CHURCHES, AND 426 RESIDENTIAL UNITS. LAWSUIT BROUGHT BY CHANNEL COUNTIES LEGAL SERVICES ASSOCIATION AND CALIFORNIA AFFORDABLE HOUSING LAW PROJECT IN 1999. PLAINTIFFS WERE VERY LOW-INCOME RESIDENTS OF THE CITY WHO CLAIMED THEY COULD NOT FIND DECENT HOUSING IN THE CITY.

PARTIES AGREED TO A SETTLEMENT AGREEMENT WHICH REQUIRED THE CITY TO BUILD AT LEAST 54 RESIDENTIAL UNITS FOR LOW- AND VERY LOW-INCOME RESIDENTS, WITH A PREFERENCE FOR FARMWORKER FAMILIES.

CITY OF PASADENA

LAWSUIT BROUGHT BY CALIFORNIA AFFORDABLE HOUSING LAW PROJECT AND LEGAL SERVICES.

COURT ORDERED **MORATORIA** ON ALL DEVELOPMENT UNTIL THE CITY ATTAINED A STATE CERTIFIED HOUSING ELEMENT.

CITY OF PITTSBURG

LAWSUIT BROUGHT BY CALIFORNIA AFFORDABLE HOUSING LAW PROJECT AND PUBLIC ADVOCATES, INC. IN 2002.

LAWSUIT PRIMARILY INVOLVED REDEVELOPMENT AGENCY AFFORDABLE HOUSING PRODUCTION REQUIREMENTS. SETTLEMENT COMMITTED THE CITY TO PRODUCE 990 UNITS OF AFFORDABLE HOUSING OVER 9 YEARS. 396 OF THESE UNITS MUST BE AFFORDABLE TO VERY LOW INCOME RESIDENTS. 200 OF THESE MUST BE BUILT WITHIN 4 YEARS.

CITY ALSO AGREED TO PROVIDE INCENTIVES FOR CONSTRUCTION OF LARGER UNITS, AND UNITS AFFORDABLE TO EXTREMELY LOW INCOME RESIDENTS, AND TO PROVIDE A PREFERENCE THAT ENSURES PEOPLE WHO LIVE OR WORK IN THE CITY WILL BENEFIT FROM NEW UNITS.

PLAINTIFFS NOT SUCCESSFUL IN THE HOUSING ELEMENT PORTION OF THE LITIGATION. \$325,000 IN ATTORNEYS FEES FOR THE REDEVELOPMENT CLAIMS.

CITY OF PLEASANTON

URBAN HABITAT PROGRAM V. CITY OF PLEASANTON (2008) 164 CAL. APP. 4TH 1561.

LAWSUIT BROUGHT BY PUBLIC ADVOCATES, INC.

COURT OF APPEALS DISMISSED THE HOUSING ELEMENT CHALLENGE AS UNTIMELY. HOWEVER, CLAIMS WERE ALLOWED TO PROCEED ALLEGING THAT, AFTER ADOPTION OF THE HOUSING ELEMENT, THE CITY'S GROWTH MANAGEMENT LAWS PREVENTED COMPLIANCE WITH HOUSING ELEMENT LAW.

CALIFORNIA ATTORNEY GENERAL WAS ALLOWED TO INTERVENE. SUPERIOR COURT FOUND IN MARCH 2010 THAT THE GROWTH CONTROL MEASURES WERE INCONSISTENT WITH HOUSING ELEMENT LAW. IN A SETTLEMENT, THE CITY AGREED TO: 1) ELIMINATE GROWTH CAP; 2) PREPARE AN ADEQUATE HOUSING ELEMENT; 3) ADOPT A CLIMATE ACTION PLAN; 4) ADOPT A NON-DISCRIMINATION RESOLUTION; AND 5) APPROVE RESIDENTIAL DEVELOPMENT OF AT LEAST 30 UNITS/ACRE AT THE HACIENDA BUSINESS PARK, INCLUDING 15% OR MINIMUM 130 UNITS OF VERY LOW INCOME FAMILY HOUSING.

\$1.9 MILLION IN ATTORNEYS FEES, PLUS \$600,000 IN DEFENSE COSTS.

CITY OF ROHNERT PARK

LAWSUIT BROUGHT BY SONOMA COUNTY HOUSING ADVOCACY GROUP IN 2001.

COURT ORDERED ROHNERT PARK TO REVISE ITS HOUSING ELEMENT FOR IMMEDIATE SUBMISSION TO HCD. ENTERED INTO SETTLEMENT; CITY AGREED TO DESIGNATE AREAS IN FUTURE ANNEXATIONS FOR AFFORDABLE HOUSING.

THE CITY WAS ORDERED TO PAY \$23,000 ATTORNEYS' FEES.

CITY OF SAN DIEGO

HOFFMASTER V. CITY OF SAN DIEGO (1997) 55 CAL. APP. 4TH 1098.

THE CITY WAS SUED IN 1994 ALLEGING THAT ITS HOUSING ELEMENT FAILED TO DESIGNATE ADEQUATE SITES FOR EMERGENCY SHELTERS. THE COURT OF APPEAL AGREED THAT VARIOUS ZONING ORDINANCE PROVISIONS MADE LOCATING EMERGENCY SHELTERS VERY DIFFICULT, AND THE CITY WAS ORDERED TO AMEND ITS ZONING ORDINANCE TO PROVIDE ADEQUATE SITES FOR EMERGENCY SHELTERS.

ANOTHER LAWSUIT WAS FILED IN 2008 ALLEGING THAT THE CITY'S HOUSING ELEMENT WAS INADEQUATE. HOUSING ELEMENT UPHELD BY TRIAL COURT; NOT APPEALED. CITY SPENT OVER \$250,000 DEFENDING LAWSUIT.

CITY OF SAN RAFAEL

ST. VINCENT'S SCHOOL FOR BOYS V. CITY OF SAN RAFAEL (2008) 161 CAL. APP. 4TH 989.

SUED BY A DEVELOPER WHO WANTED HIS PROPERTY ANNEXED TO THE CITY AND ARGUED THAT THE CITY DID NOT HAVE ADEQUATE HOUSING SITES UNLESS HIS PROPERTY WAS ANNEXED.

COURT RULED THAT SAN RAFAEL'S HOUSING ELEMENT SUBSTANTIALLY COMPLIED WITH HOUSING ELEMENT LAW THAT WAS IN EFFECT WHEN SAN RAFAEL ADOPTED ITS HOUSING ELEMENT.

CITY WAS AWARDED COSTS OF \$26,362.50 FOR EXCESSIVE PUBLIC RECORDS ACT REQUEST BY PLAINTIFFS. COSTS OF DEFENSE WERE SEVERAL HUNDRED THOUSAND DOLLARS (INCLUDED CEQA AND OTHER CLAIMS).

CITY OF SANTA ROSA

LAWSUIT BROUGHT BY CAHLP AND SONOMA COUNTY HOUSING ADVOCACY GROUP IN 2002.

MOST OF THE HOUSING BUILT PRIOR TO LITIGATION WAS FOR UPPER INCOME HOUSEHOLDS. LOW AND MODERATE INCOME FAMILIES (70% OF THE POPULATION) SAW ONLY 7% OF THE HOUSING BUILT.

COURT ORDERED SANTA ROSA TO REVISE ITS HOUSING ELEMENT FOR IMMEDIATE SUBMISSION TO HCD.

UNDER THE TERMS OF THEIR SETTLEMENT, SANTA ROSA COMMITTED TO SIMPLIFYING THE APPROVAL PROCESS, TO SPECIFYING A SITE FOR A 40 + BED HOMELESS SHELTER AND ASSISTING WITH ITS ACQUISITION, TO ESTABLISHING AN AFFORDABLE HOUSING TRUST FUND, ALLOWING SROs, TO COMPLETE REZONING OF LOWER INCOME SITES, AND TO IMPOSING A FEE ON NEW COMMERCIAL AND INDUSTRIAL DEVELOPMENT TO SUPPORT DEVELOPMENT OF AFFORDABLE HOUSING FOR THE FACILITIES' WORKERS.

CITY ORDERED TO PAY \$28,000 IN ATTORNEYS' FEES.

CITY OF SOLANA BEACH

HARO V. CITY OF SOLANA BEACH (2011) 195 CAL. APP. 4TH 542.

LAWSUIT BROUGHT BY AFFORDABLE HOUSING ADVOCATES IN 2008 ON BEHALF OF AN INDIVIDUAL FOR FAILURE TO IMPLEMENT HOUSING ELEMENT. COURT OF APPEAL FOUND CASE TO HAVE BEEN UNTIMELY FILED.

CITY OF WINTERS

LAWSUIT BROUGHT BY LEGAL SERVICES FOR NOT SETTING ASIDE A SUFFICIENT PERCENTAGE OF UNITS IN NEW DEVELOPMENTS FOR AFFORDABLE HOUSING. PARTIES SETTLED PURSUANT TO A STIPULATED JUDGMENT. THE CITY MUST REPORT TO PLAINTIFF EACH YEAR, AND PLAINTIFF MAY APPROVE OR DISAPPROVE THE CITY'S HOUSING ELEMENT.

ATTACHMENT “HEU-4”

HCD, HOUSING ELEMENT INCENTIVES (2009)

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Division of Housing Policy Development

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643



Incentives for Housing Element Compliance

Updated January 2009

Housing elements have been mandatory portions of local general plans in California since 1969. This reflects the statutory recognition that the availability of housing is a matter of statewide importance and cooperation between government and the private sector is critical to attainment of the State's housing goals. Housing element law is the State's primary market-based strategy to increase housing supply, affordability and choice. The law recognizes that in order for the private sector to adequately address housing needs and demand, local governments must adopt land-use plans and regulatory schemes that provide opportunities for, and do not unduly constrain, housing development.

To incentivize and reward local governments that have adopted compliant and effective housing elements, several housing, community development and infrastructure funding programs include housing element compliance as a rating and ranking or threshold requirement.

Housing element compliance is generally included as a rating and ranking criteria in programs where the primary applicants are local governments. As eligible applicants vary by program, (e.g., only non-entitlement jurisdictions eligible for State CDBG or HOME programs) not all jurisdictions are affected by these programmatic requirements.

The effect or significance of the housing element factor within the context of other competitive factors varies by program. Please refer to program specific information available for the specific criteria utilized including timing requirements.

California Department of Housing and Community Development

- **Building Equity and Growth in Neighborhoods (BEGIN) Program**

<http://www.hcd.ca.gov/fa/begin>

Program Description: The BEGIN Program is a homeownership program providing grants to local governments that reduce regulatory constraints to housing. Grants are provided for downpayment assistance to low- and moderate-income first-time homebuyers.

Housing Element Criteria: Points are granted for jurisdictions with an adopted housing element found in substantial compliance with State housing element law.

- **Home Investments Partnerships (HOME) Program (Federal)**

<http://www.hcd.ca.gov/fa/home>

Program Description: The HOME Program provides grants to cities, counties, and State-certified CHDO's for housing rehabilitation, new construction, and acquisition and rehabilitation for both single family and multifamily housing projects serving lower-income renters and owners.

Housing Element Criteria: Points are granted for jurisdictions with an adopted housing element found in substantial compliance with State housing element law.

- **Community Development Block Grant (CDBG) Program**

<http://www.hcd.ca.gov/fa/cdbg>

General Allocation

Program Description: The CDBG/GA Program provides funds for new construction, housing acquisition, housing programs, housing rehabilitation, public services, community facilities, economic development, and public works.

Housing Element Criteria: To be eligible for funding, a jurisdiction's housing element must be adopted pursuant to Government Code Section 65585 by a date established in the NOFA/Application.

Planning and Technical Assistance

Program Description: CDBG/PTA Program provides funds for planning and feasibility studies related to CDBG-eligible activities.

Housing Element Criteria: To be eligible for funding, a jurisdiction's housing element must be adopted pursuant to Government Code Section 65585 by a date established in the NOFA/Application.

- **Infill Incentive Grant (IIG) Program**

<http://www.hcd.ca.gov/fa/iig/>

Program Description: The IIG Program provides funds for infrastructure improvements necessary to facilitate new infill housing development.

Housing Element Criteria: To be eligible for funding, projects must be located in a locality which has an adopted housing element that has been found by the Department to be in substantial compliance as of the due date for applications pursuant to the NOFA.

- **Housing Related Parks (Parks) Program**

<http://www.hcd.ca.gov/hpd/hrpp/>

Program Description: The Housing Related Parks Program creates incentives and rewards for cities and counties with documented housing starts for newly constructed units affordable to very low or low-income households with grant funds which can be used to create new parks or rehabilitation or improvement to existing parks.

Housing Element Criteria: To be eligible for funding Cities and counties must have an adopted housing element that the Department has found to be in substantial compliance with State housing element law by the end of the 12-month period (CY) for which application is made. In addition, jurisdictions must have submitted to the Department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months.

- **Local Housing and Trust (LHTF) Program**

<http://www.hcd.ca.gov/fa/ahif/lhtf.html>

Program Description: The LHTF helps finance local housing trust funds dedicated to the creation or preservation of affordable housing. The program provides matching grants (dollar-for-dollar) to local housing trust funds that are funded on an ongoing basis from private contributions or public sources that are not otherwise restricted in use for housing programs.

Housing Element Criteria: To be eligible for funding, Cities and counties must have adopted housing elements that the Department has found in compliance with State housing element law.

- **Workforce Housing Reward (WFH) Program (*no current funding available*)**

<http://www.hcd.ca.gov/fa/whrp>

Program Description: The WFH Program provides financial incentives to cities and counties that issue building permits for new housing affordable to very low- or low-income households. Grant funds can be used for a wide range of capital asset projects including parks, street/infrastructure improvements, recreational facilities, housing, neighborhood improvements, public safety and community revitalization efforts.

Housing Element Criteria: To be eligible for funding, a jurisdiction must have an adopted housing element that has been found in compliance by the Department by a date established in the NOFA/Application.

Other Statewide Programs

- **California Debt Limit Allocation Committee of State Treasurer's Office
Single Family Home Program**

<http://www.treasurer.ca.gov/cdlac/procedures/adopted.pdf>

Program Description: Reduced interest, tax-exempt bonds to finance affordable housing projects, both rental and homeownership.

Housing Element Criteria: The proposed Single Family Home Program must be consistent with the adopted housing element for the jurisdiction in which the program is to be operated.

- **California Infrastructure and Economic Development Bank (I-Bank) Infrastructure State Revolving Fund (ISRF) Program**

http://www.ibank.ca.gov/ttca/pdfs/detail/inf_bank/BoardApprovedCriteria revised02-01-07.pdf

Program Description: The ISRF Program provides low-cost financing to public agencies for a wide variety of infrastructure projects. Eligible project categories include city streets, county highways, state highways, drainage, water supply and flood control, educational facilities, environmental mitigation measures, parks and recreational facilities, port facilities, public transit, sewage collection and treatment, solid waste collection and disposal, water treatment and distribution, defense conversion, public safety facilities, and power and communications facilities.

Housing Element Criteria: Points will be granted for jurisdictions or applicants located within a jurisdiction with a Department approved housing element.

- **California Housing Finance Agency Housing Enabled by Local Partnerships (HELP) Program**

<http://www.calhfa.ca.gov/localities/help/index.htm>

Program Description: The HELP Program and the Residential Development Loan Program (RDLP) offer reduced rate loans to local government entities for locally determined affordable housing activities and priorities (acquisition, construction, rehabilitation, single-family homeownership, or preservation of multifamily and special needs units).

Housing Element Criteria: Proposals must include documented housing plans that demonstrate that the proposed housing activity described in the application has been identified as a local housing priority. Eligible documented housing plans include the housing elements, consolidated plans, redevelopment plans or other general housing plans that the locality's governing board has ratified. Applications must also include evidence that a plan has been approved.

ATTACHMENT “HEU-5”

**HCD’s LOANS, GRANTS AND
ENTERPRISE ZONE PROGRAMS (2015)**



HCD's Loans, Grants and Enterprise Zone Programs

HCD administers more than 20 programs that award loans and grants for the construction, acquisition, rehabilitation and preservation of affordable rental and ownership housing, homeless shelters and transitional housing, public facilities and infrastructure, and the development of jobs for lower income workers. **Please note that, with rare exceptions, these loans and grants are not made to individuals**, but to local public agencies, nonprofit and for-profit housing developers, and service providers. In many cases these agencies then provide funds to individual end users.

Below is a Funds Available Calendar (FAC) that lists current Notices of Funding Availability (NOFAs) for HCD's loan and grant programs. Click on the program names to see program descriptions. Below the individual descriptions are links to NOFAs and other publications related to that program. At the bottom of this page are links to other program-related publications, including our Loan and Grant Program Directory.

2014 Drought Housing Rental Subsidies Program (SB 104)

- 2014 Drought Housing Rental Subsidies Program (SB 104) Guidelines - (*Adobe PDF*)
- Request for Qualifications - 2014 Drought Housing Rental Subsidies Program (SB 104) - (*Adobe PDF*)
- Public Notice - (*Adobe PDF*)

AB 1699 HCD Loan Restructuring Program

- Adopted Guidelines 3-Oct-14 - (*Adobe PDF*)
- Adopted Guidelines 3-Oct-14 Showing Revisions from Third Draft - (*Adobe PDF*)
- Final Statement of Reasons - (*Adobe PDF*)
- Application Material (forthcoming)
- Notice of Availability of Additional Changes to Proposed Guidelines Implementing AB 1699 - (*Adobe PDF*)
- Third Draft Revised Proposed Guidelines - (*Adobe PDF*)
- Summaries of and Responses to Public Comments on Second Draft - (*Adobe PDF*)

Affordable Housing Innovation Program (AHIP) - Golden State Acquisition Fund (GSAF)

- Amended Guidelines Adopted: 21-November-12 (*Adobe PDF*)
- Adopted Guidelines: 23-July-10
- **Request for Proposals (RFP)**
 - 29-September-10: RFP Released
 - **15-Dec-10** (must be received at HCD): *Extended* Proposal Submittal Date
 - Cover Letter
 - Request for Proposals
 - Threshold Detail Spreadsheet

Affordable Housing Innovation Program – Local Housing Trust Fund Program (LHTF)

- **New Trust Funds**
 - **26-Feb-14**: NOFA Issuance
- New Trust funds treated as over-the-counter until available funds are exhausted for the new trust funds
- Amendment #1 to 26 Feb 14 NOFA

Affordable Housing Innovation Program – Innovative Homeownership Program (IHP)

Affordable Housing Innovation Program – Construction Liability Insurance Reform Pilot Program (CLIRPP)

NEW!! Affordable Housing and Sustainable Communities (AHSC) Program

Important Updates

- AHSC Round 1 Guidelines (adopted 01/20/15)
- January 30, 2015 2014-2015 AHSC NOFA
- AHSC Concept Proposal Instructions
 - **Note:** All Concept Proposals must be submitted by through the FAAST Online Application Submittal Tool, available at <https://faast.waterboards.ca.gov/Login.aspx>
- February 13, 2015 ASHC Program Guideline and Concept Application Clarification Memo
- AHSC NOFA Training Materials (available after 2/4/15)

American Recovery and Reinvestment Act – Community Development Block Grant Recovery Program (CDBG-R)

American Recovery and Reinvestment Act – Homelessness Prevention and Rapid Re-Housing Program (HPRP)

No current funding being offered for this program

- **09-Jul-09**: NOFA Issuance

Building Equity and Growth in Neighborhoods Program (BEGIN)

No current funding being offered for this program

- Notice of Funding Availability (\$17 million)

NOFA Schedules for HCD Programs

Loan and Grant Program Directory

Division of Financial Assistance Organization Chart

Asset Management and Compliance Section (State Programs)

Division of Financial Assistance Publications

Bond-Funded Housing and Programs Update

Affordable Rental Housing Directory

Homebuyer Program Sample Guidelines and Checklist (*Microsoft Word*)

Loan and Grant Committee Members

- 23-Dec-11: Notice of Closure for Notice of Funding Availability
- 23-Sept-11: NOFA Issuance

CalHome Program

- 2014 CalHome Awards by County
- 2014 Workshop Announcement

California Self-Help Housing Program (CSHHP)

No current funding being offered and no applications are being accepted.

Catalyst Projects for California Sustainable Strategies Pilot Program

- Program Guidelines
- California Catalyst Community Designees - Catalyst Project Summaries
- Applications Received
- 17-Dec-09: RFP Released
- Request for Proposals (RFP)

Community Development Block Grant Program (CDBG)**Downtown Rebound Program (DRP)**

No current funding being offered for project loans or predevelopment grants.

Emergency Housing and Assistance Program Operating Facility Grants (EHAP)

No current funding being offered for this program

- **Notice of Funding Availability (\$6,040,000)**
 - 20-Jan-11: NOFA Issuance
 - 24-Feb-11: Application Deadline
 - 8-Feb-11: Sacramento NOFA Training Workshop
 - 10-Feb-11: San Diego NOFA Training Workshop
 - Anticipated Award Announcement – Approximately May 2011

Emergency Housing and Assistance Program Capital Development (EHAPCD)

No current funding being offered for this program

- **Notice of Funding Availability (minimum \$20 million)**
 - 15-Aug-11: NOFA Issuance
 - 30-Sep-11: Application Deadline
 - Anticipated Loan and Grant Committee – Approximately December 2011 & January 2012
 - Anticipated Award Announcement – Approximately January 2012

Emergency Solutions Grant (ESG) Program

- 2014 HMIS Outcomes Memorandum - (*Adobe PDF*)

Enterprise Zone Programs

- Enterprise Zones (EZs)
- Local Agency Military Base Recovery Areas (LAMBRAs)
- Manufacturing Enhancement Areas (MEAs)
- Targeted Tax Areas (TEAs)
- Hiring Tax Credits & Vouchering

Exterior Accessibility Grants for Renters

Program not currently making grants

Federal Emergency Shelter Grant Program (FESG)

No current funding being offered for this program

- Public Notice for ESG Substantial Amendment to 2011-2012 Annual Plan
 - English
 - Spanish
- Draft Substantial Amendment to the 2011-12 State Emergency Solutions Grant Program Annual Plan - (*Adobe PDF*)

Governor's Homeless Initiative

- 01-Apr-14: NOFA Issuance

Home Investment Partnerships Program (HOME)

- 01-May-14: NOFA Issuance (\$28 million)
- 01-July-14: Application Deadline
- Awards Announced: Programs, December 2014; Projects, December 2014

Homeless and Housing Assistance Programs (HHAP)

- HHAP Contact List – (*Microsoft Excel*)

Housing Assistance Program (HAP)

Effective January 1, 2012, the Department of Housing and Community Development no longer acts as the Public Housing Agency (PHA) in the administration of the federal Housing Choice Voucher (HCV) and Family Self-Sufficiency (FSS) Programs.

Housing Related Parks Program (HRP)

Now Accepting Applications - Due February 5, 2015

- DPY 2014 Notice of Funding Availability - (*Adobe PDF*)
 - DPY 2014 Program Application - (*Microsoft Excel*) (12/22/2014)
 - Application Instructions - (*Adobe PDF*) (12/22/2014)
 - HRP Program Guidelines - (*Adobe PDF*)
-

Infill Infrastructure Grant Program**Jobs-Housing Balance Incentive Grants**

Program not currently making grants

Joe Serna, Jr. Farmworker Housing Grant Program (JSJFWHG)

- No current funding being offered and no applications are being accepted.
-

Mobilehome Park Resident Ownership Program (MPROP)

- **Notice of Funding Availability (\$8 million)**
 - 01-Aug-11: NOFA Issuance
-

Multifamily Housing Program (MHP)

- **Supportive Housing NOFA**
 - Allocation: \$47.5 million
 - 24-Oct-14: NOFA Issuance
 - 23-Dec-14: Application Deadline
-

Office of Migrant Services (OMS)

This program develops, owns, and funds the operation of seasonal housing for migrant farm workers. Funding to operate, maintain, and rehabilitate existing centers is budgeted and contracted annually.

Predevelopment Loan Program (PDLP)

- **Notice of Funding Availability (revolving fund amount available fluctuates)**
 - December 2014 NOFA
 - December 2014 Application: Ongoing. continuous. Applications accepted, reviewed and funds awarded as funds become awarded.
-

TOD Housing Program**Veteran Housing and Homeless Prevention Program (VHHP)**

- **Acquisition, construction, rehabilitation and preservation of affordable multifamily supportive housing, transitional housing and affordable rental housing or related facilities for veterans and their families to allow veterans to access and maintain housing stability.**
 - Guidelines Adopted 2/2015
 - 2015 NOFA
 - 2015 Application – Forthcoming
 - Income, Rent and Loan Limits – Forthcoming
 - Response to Comments on Draft Guidelines
 - Guidelines Adopted 2/2015 showing changes from 11/2014 Draft
-

Workforce Housing Reward Program

Program not currently making grants.

PUBLICATIONS

- Division of Financial Assistance Annual Report FY 2013-2014 (*Adobe PDF*)
- Division of Financial Assistance Annual Report FY 2012-2013 (*Adobe PDF*)
- Division of Financial Assistance Annual Report FY 2011-2012 (*Adobe PDF*)
- Division of Financial Assistance Annual Report FY 2010-2011 (*Adobe PDF*)
- Division of Financial Assistance Annual Report FY 2009-2010 (*Adobe PDF*)
- Division of Financial Assistance Annual Report FY 2008-2009 (*Adobe PDF*)
- Division of Financial Assistance Annual Report, FY 2007/2008 (*Adobe PDF*)
- Division of Financial Assistance Annual Report, FY 2006/2007 (*Adobe PDF*)
- Division of Financial Assistance Annual Report, FY 2005/2006 (*Adobe PDF*)
- Division of Financial Assistance Annual Report, FY 2004/2005 (*Adobe PDF*)
- Division of Financial Assistance Annual Report, FY 2003/2004 (*Adobe PDF*)
- Division of Financial Assistance Annual Report, FY 2002/2003 (*Adobe PDF*)
- Glossary of Housing and Housing Finance Terms (*Microsoft Excel*)
- Federal Plans & Reports

ATTACHMENT “HEU-6”

ADDITIONAL CONSEQUENCES (SB 357 and AB 1233)

In accordance with State Law (as of this writing), a Housing Plan is required to be updated every eight years and must obtain approval from the Department of Housing and Community Development. The frequent updates allow local plans to stay relevant and accurate to account for special needs, or resources and conditions as they change.

SB 375, Statutes of 2008

SB 375 amendments changed several provisions of housing and transportation law impacting Regional Housing Needs Assessment (RHNA) process and Housing Plan Update schedules. Among other things, to strengthen the connection between housing and transportation planning, SB 375 amendments to State Law changed Housing Plan schedules based on RTP adoption dates (Housing Plans to be revised no later than 18 months after adoption). It also emphasized the timely adoption of the plan and requires agencies to adopt their element not later than 120 days from the due date to avoid the consequences of begin required to revise the element at four year intervals. The idea behind better connecting land use and transportation planning is to develop an overall strategy to allocate housing units that can be more consistent with the development patterns identified in regional transportation plans.

Due to the fact Encinitas did not adopt the element within 120 calendar days from the start date of the planning period (by April 30, 2013), Government Code Section 65588(e) requires Encinitas to update its Housing Element every four years, while still accommodating the full RHNA. The City will remain on this four year cycle until it has adopted at least two consecutive revisions by the statutory deadline.

Pursuant to Government Code Section 65583(g), if a local government fails to complete rezonings that are identified in an updated Housing Plan, by the prescribed deadline, a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project is proposed to be located on a site required to be rezoned and complies with applicable objective general plan and zoning standards and criteria, including design review standards, described in the rezone program action.

AB 1233, Statutes of 2005

AB 1233 was signed into law in October, 2005 and states that if a local agency fails to provide adequate sites in the prior planning period, within one year of the new cycle, the jurisdiction must rezone/upzone adequate sites to accommodate the shortfall. This requirement is in addition to rezoning/upzoning that may be needed to address the RHNA Allocation for the new

planning cycle. For the City of Encinitas, this means that since the City did not have an adequate inventory of land in the 2005-2010 planning cycle, the shortfall carries over into the 2013-2020 planning cycle and is in addition to the new RHNA allocation.

Future planning cycles will also be penalized similarly unless the City can accommodate its full share. Government Code Section 65583 requires local governments to prepare an inventory of land suitable for residential development to accommodate the full share of RHNA (plus the carryover penalty). Although these RHNA units have been assigned to Encinitas, all of these units may not necessarily be built within the Housing Element cycle because of market conditions, property owner decisions, and availability of loans/subsidies.

ATTACHMENT “HEU-7”

HOUSING ELEMENT LAW - NEEDS ASSESSMENT

<i>Need Overview</i>	<i>Brief Description</i>
(1) Analysis of population/employment trends	Analysis of population and employment trends and documentation of projections and quantification of existing and projected housing needs for all income levels.
(2) Analysis and documentation of household characteristics	Analysis and documentation of household characteristics, including level of payment and ability to pay, overcrowding, and housing stock condition.
(3) Analysis and Inventory of land use	Inventory of land suitable for residential development including vacant sites and those having redevelopment potential and an analysis of the relationship of zoning and public facilities and services to those sites.
(4) Identification of emergency shelters	Identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit and which have sufficient capacity to accommodate at least one year round shelter. Demonstration that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters.
(5) Analysis of and/or Actual Government Constraints	Analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including multi-family rental housing, factory-built housing, mobilehomes, housing for agricultural workers, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and for persons with disabilities. Analysis of possible constraints should include review of land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers and local processing and permit procedures. Efforts to remove governmental constraints that hinder meeting the regional housing need allocations and from meeting the need for persons with disabilities, supportive housing, transitional housing, and emergency shelters.
(6) Analysis of potential and actual non-governmental constraints	An analysis of potential and actual non-governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
(7) An analysis of special housing needs(disabled, elderly, large families, etc)	An analysis of special housing needs, such as those of the elderly; persons with disabilities, including developmental disabilities; large families; farmworkers, families with female heads of households; and families and persons in need of emergency shelter.
(8) Opportunities for energy conservation.	An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.
(9) Analysis of changing housing developments from low-income	An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage pre-payment, or expiration of restrictions on use.

ATTACHMENT “HEU-8”

HOUSING ELEMENT-RELATED LAWS AND TECHNICAL ASSISTANCE PAPERS

Housing Element Law embraces many different housing-related objectives and it is difficult for non-experts to understand. Therefore, the Department of Housing and Community Development (HCD) works with local agencies and other public/private sectors to help clarify statutes and requirements. The following HCD Published Technical Assistance Papers aim to assist local governments in drafting and adopting housing elements that effectively address State housing law requirements.

Additional Technical Assistance Papers and more information on housing element-related requirements can be found online at <http://www.hcd.ca.gov/hpd/>

Bill	Bill Overview	Brief Description and Technical Assistance Paper
AB 1233	Rezoning deadlines and carryover RHNA penalty	Requires local governments to zone for an adequate inventory of sites within the first year of the new planning period to address any portion of the RHNA for which the jurisdiction failed to identify or make available sites in the prior planning period. http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf
SB 2 and SB 745	Zoning for emergency shelters, transitional housing, and supportive housing	Encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf http://www.hcd.ca.gov/hpd/SB745/sb745memo042414.pdf
SB 1087	Water and sewer service coordination	Requires all local agencies to immediately deliver the adopted housing element or amendments to water and sewer service providers – and provide connection priorities to affordable housing developments. http://www.hcd.ca.gov/hpd/memo_sb1087.pdf
AB 2348	Inventory and suitability of sites/default densities	Clarifies the land inventory requirements and establishes “default” density standards and densities appropriate for accommodating the jurisdictions share of regional housing need for lower income households.

		http://www.hcd.ca.gov/hpd/hrc/plan/he/ab2348stat04ch724.pdf Default densities defined: http://www.hcd.ca.gov/hpd/Default_2010census_update.pdf
SB 375	Housing and transportation planning, schedules and element due dates	Reinforces the importance of identifying sustainable development opportunities and strengthens implementation requirements in the housing element. http://www.hcd.ca.gov/hpd/SB375/sb375_final100413.pdf
AB 1866	Second unit law and second units meeting regional housing need	Clarifies how an agency can count realistic capacity for second-units in the RHNA process - based on the development trends of second-units in the previous housing element planning period and other relevant factors. http://www.hcd.ca.gov/hpd/hpd_memo_ab1866.pdf
SB 520 and SB 812	Analysis of constraints on development of housing for persons with disabilities	Requires analysis of potential and actual constraints upon the development, maintenance and improvement of housing for persons with disabilities. http://www.hcd.ca.gov/hpd/hrc/plan/he/sb520_hpd.pdf http://www.hcd.ca.gov/hpd/NoticeCoverLtrSB812.pdf
AB 720, AB 1867 and AB 1103	Amends the alternative adequate sites sections	AB 720 expands the timeline for a local government to provide committed assistance for the rehabilitation, conversion or preservation of affordable housing units. AB 1867 allows multifamily housing conversion to lower income households by acquisition or the purchase of affordability covenants to qualify towards meeting the alternative adequate sites requirements. AB 1103 allows foreclosed properties converted to housing affordable to low income households by acquisition or the purchase of affordability covenants to qualify under the alternative adequate sites requirement. http://www.hcd.ca.gov/hpd/hrc/plan/he/alt_adeq_sites082412.pdf

ATTACHMENT “HEU-9”

**GOVERNMENT CODE, ARTICLE 10.6
SECTIONS 65580 - 65589.8**

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66103]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 3. Local Planning [65100 - 65763]

(Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)

ARTICLE 10.6. Housing Elements [65580 - 65589.8]

(Article 10.6 added by Stats. 1980, Ch. 1143.)

65580.

The Legislature finds and declares as follows:

- (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
- (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
- (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
- (d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
- (e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

(Amended by Stats. 1999, Ch. 967, Sec. 4. Effective January 1, 2000.)

65581.

It is the intent of the Legislature in enacting this article:

- (a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.
- (b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.
- (c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.
- (d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

(Added by Stats. 1980, Ch. 1143.)

65582.

As used in this article, the following definitions apply:

- (a) “Community,” “locality,” “local government,” or “jurisdiction” means a city, city and county, or county.
- (b) “Council of governments” means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.
- (c) “Department” means the Department of Housing and Community Development.
- (d) “Emergency shelter” has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.
- (e) “Housing element” or “element” means the housing element of the community’s general plan, as required pursuant to this article and subdivision (c) of Section 65302.
- (f) “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.
- (g) “Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible

for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

(h) “Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

(Amended by Stats. 2013, Ch. 183, Sec. 19. Effective January 1, 2014.)

65582.1.

The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

- (a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).
- (b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).
- (c) Restrictions on disapproval of housing developments (Section 65589.5).
- (d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).
- (e) Least cost zoning law (Section 65913.1).
- (f) Density bonus law (Section 65915).
- (g) Second dwelling units (Sections 65852.150 and 65852.2).
- (h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).
- (i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).
- (j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).
- (k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

- (l) Limiting moratoriums on multifamily housing (Section 65858).
 - (m) Prohibiting discrimination against affordable housing (Section 65008).
 - (n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).
 - (o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).
- (Added by Stats. 2006, Ch. 888, Sec. 4. Effective January 1, 2007.)*

65583.

The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

- (a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
 - (1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
 - (2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.
 - (3) An inventory of land suitable for residential development, including vacant sites and sites

having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

- (i) The maximum number of beds or persons permitted to be served nightly by the facility.
- (ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- (iii) The size and location of exterior and interior onsite waiting and client intake areas.
- (iv) The provision of onsite management.
- (v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
- (vi) The length of stay.
- (vii) Lighting.
- (viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public

Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available

program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning

period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in subdivision (b) of Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to

paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.

(8) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the

amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:

(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state, federal, or local agency.

(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.

(3) The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)). Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it

makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. 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.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, “housing development project” means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

(Amended by Stats. 2010, Ch. 610, Sec. 1.9. Effective January 1, 2011.)

65583.1.

(a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not

limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the

purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available for rent at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the

unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

- (i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.
- (ii) The unit is within an “assisted housing development,” as defined in paragraph (3) of subdivision (a) of Section 65863.10.
- (iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.
- (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.
- (v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, “committed assistance” means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. “Committed assistance” does not include tenant-based rental assistance.

(5) For purposes of this subdivision, “net increase” includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, “the time the unit is identified” means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

(Amended by Stats. 2012, Ch. 58, Sec. 1. Effective January 1, 2013.)

65583.2.

(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

- (2) Vacant sites zoned for nonresidential use that allows residential development.
- (3) Residentially zoned sites that are capable of being developed at a higher density.
- (4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

- (1) A listing of properties by parcel number or other unique reference.
- (2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
- (3) For nonvacant sites, a description of the existing use of each property.
- (4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.
- (5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.
- (6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.
- (7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

- (1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2023, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on Transportation and Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided twice, once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, and a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of

subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marín Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) This section shall remain in effect only until December 31, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2023, deletes or extends that date.

(Amended by Stats. 2014, Ch. 883, Sec. 1.5. Effective January 1, 2015. Repealed as of December 31, 2023, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2014, Ch. 875.)

65583.2.

(a) A city’s or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, “land suitable for residential development” includes all of the following:

- (1) Vacant sites zoned for residential use.
- (2) Vacant sites zoned for nonresidential use that allows residential development.
- (3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and, as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional

development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) This section shall become operative on December 31, 2023.

(Repealed (in Sec. 1.5 of Ch. 883) and added by Stats. 2014, Ch. 875, Sec. 2.5. Effective January 1, 2015. Section operative December 31, 2023, by its own provisions.)

65584.

(a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the

department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05 with the advice of the department.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

(3) Promoting an improved intraregional relationship between jobs and housing.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United

States census.

(e) For purposes of this section, “household income levels” are as determined by the department as of the most recent decennial census pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(f) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(Amended by Stats. 2007, Ch. 5, Sec. 1. Effective April 10, 2007.)

65584.01.

(a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(b) The department’s determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance

as may be modified by the department as a result of discussions with the council of governments.

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

(F) The relationship between jobs and housing, including any imbalance between jobs and housing.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (F), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection

which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

(Amended by Stats. 2008, Ch. 728, Sec. 8. Effective January 1, 2009.)

65584.02.

(a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section 65584.01:

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527,

but a period not less than five years, and not longer than six years.

(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

(Amended by Stats. 2008, Ch. 728, Sec. 9. Effective January 1, 2009.)

65584.03.

(a) At least 28 months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments has not received notification from an eligible subregional entity at least 28 months prior to the scheduled housing element update required by Section 65588, the council of governments shall implement the provisions of Sections 65584 and 65584.04. The delegate

subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

(c) At least 25 months prior to the scheduled revision, the council of governments shall determine the share of regional housing need assigned to each delegate subregion. The share or shares allocated to the delegate subregion or subregions by a council of governments shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan. Prior to allocating the regional housing needs to any delegate subregion or subregions, the council of governments shall hold at least one public hearing, and may consider requests for revision of the proposed allocation to a subregion. If a proposed revision is rejected, the council of governments shall respond with a written explanation of why the proposed revised share has not been accepted.

(d) Each delegate subregion shall fully allocate its share of the regional housing need to local governments within its subregion. If a delegate subregion fails to complete the regional housing need allocation process among its member jurisdictions in a manner consistent with this article and with the delegation agreement between the subregion and the council of governments, the allocations to member jurisdictions shall be made by the council of governments.

(Added by Stats. 2004, Ch. 696, Sec. 6. Effective January 1, 2005.)

65584.04.

(a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the

extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use

restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing cost burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

(i) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.

(2) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.

(3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan.

(Amended by Stats. 2008, Ch. 728, Sec. 10. Effective January 1, 2009.)

65584.05.

(a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, based on the methodology adopted pursuant to Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 60 days following receipt of the draft allocation, a local government may request from the council of governments or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in paragraphs (1) to (9), inclusive, of subdivision (d) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.04, why the proposed revision is inconsistent with the regional housing need.

(d) If the council of governments or delegate subregion, as applicable, does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting party, the local government may appeal its draft allocation based upon either or both of the following criteria:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The council of governments or delegate subregion, as applicable, failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04.

(e) The council of governments or delegate subregion, as applicable, shall conduct public hearings to hear all appeals within 60 days after the date established to file appeals. The local government shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 days and not more than 35 days after the date of the notification. Before taking action on an appeal, the council of governments or delegate subregion, as applicable, shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The final action of the council of governments or delegate subregion, as applicable, on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with this article. The final action on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments or delegate subregion, as applicable, shall issue a proposed final allocation within 45 days after the completion of the 60-day period for hearing appeals. The proposed

final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the revision request process and the appeals process specified in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. In no event shall the total distribution of housing need equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03. Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.

(h) Within 45 days after the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. The council of governments shall submit its final allocation plan to the department within three days of adoption. Within 60 days after the department's receipt of the final allocation plan adopted by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(i) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(Amended by Stats. 2009, Ch. 632, Sec. 1. Effective January 1, 2010.)

65584.06.

(a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of

at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

(Amended by Stats. 2007, Ch. 369, Sec. 6. Effective January 1, 2008.)

65584.07.

(a) During the period between adoption of a final regional housing needs allocation and the due date of the housing element update under Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the

council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

- (b) (1) The county and cities that have executed transfers of regional housing needs pursuant to subdivision (a) shall use the revised regional housing need allocation in their housing elements and shall adopt their housing elements by the deadlines set forth in Section 65588.
- (2) A city that has received a transfer of a regional housing need pursuant to subdivision (c) shall adopt or amend its housing element within 30 months of the effective date of incorporation.
- (3) A county or city that has received a transfer of regional housing need pursuant to subdivision (d) shall amend its housing element within 180 days of the effective date of the transfer.
- (4) A county or city is responsible for identifying sites to accommodate its revised regional housing need by the deadlines set forth in paragraphs (1), (2), and (3).
- (5) All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time within which materials and data were required to be made available to interested parties.
- (c) (1) If an incorporation of a new city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of the county's allocation shall be transferred to the new city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the new city.
- (2) Within 90 days after the date of incorporation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, or to the department, whichever allocated the county's share. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department. A copy of a written transfer request submitted to the council of governments shall be submitted to the department. The council of

governments, subregional entity, or the department, whichever allocated the county's share, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.04 or 65584.08. If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.03. If the department allocated the county's share, the transfer shall be based on the considerations specified in Section 65584.06. The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

- (d) (1) If an annexation of unincorporated land to a city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of the county's allocation may be transferred to the city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the city.
- (2) (A) Except as provided under subparagraph (B), within 90 days after the date of annexation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, and to the department. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department. The council of governments, subregional entity, or the department for areas with no council of governments, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.04 or 65584.08. If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.03. If the department allocated the county's share, the transfer shall be based on the considerations specified in Section 65584.06. The transfer shall neither reduce the total regional housing needs nor

change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department for areas with no council of governments. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

(B) If the annexed land is subject to a development agreement authorized under subdivision (b) of Section 65865 that was entered into by a city and a landowner prior to January 1, 2008, the revised determination shall be based upon the number of units allowed by the development agreement.

(3) A transfer shall not be made when the council of governments or the department, as applicable, confirms that the annexed land was fully incorporated into the methodology used to allocate the city's share of the regional housing needs.

(Amended by Stats. 2008, Ch. 11, Sec. 1. Effective January 1, 2009.)

65584.09.

(a) For housing elements due pursuant to Section 65588 on or after January 1, 2006, if a city or county in the prior planning period failed to identify or make available adequate sites to accommodate that portion of the regional housing need allocated pursuant to Section 65584, then the city or county shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.

(b) The requirements under subdivision (a) shall be in addition to any zoning or rezoning required to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584 for the new planning period.

(c) Nothing in this section shall be construed to diminish the requirement of a city or county to accommodate its share of the regional housing need for each income level during the planning period set forth in Section 65588, including the obligations to (1) implement programs included pursuant to Section 65583 to achieve the goals and objectives, including programs to zone or rezone land, and (2) timely adopt a housing element with an inventory described in paragraph (3) of subdivision (a) of Section 65583 and a program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583, which can accommodate the jurisdiction's share of the regional housing need.

(Added by Stats. 2005, Ch. 614, Sec. 2. Effective January 1, 2006.)

65584.1.

Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article. Any fee shall not exceed the estimated amount required to implement its obligations pursuant to Sections 65584, 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, and 65584.07. A city, county, or city and county may charge a fee, not to exceed the amount charged in the aggregate to the city, county, or city and county by the council of governments, to reimburse it for the cost of the fee charged by the council of government to cover the council's actual costs in distributing regional housing needs. The legislative body of the city, county, or city and county shall impose the fee pursuant to Section 66016, except that if the fee creates revenue in excess of actual costs, those revenues shall be refunded to the payers of the fee.

(Amended by Stats. 2005, Ch. 595, Sec. 6. Effective January 1, 2006.)

65584.2.

A local government may, but is not required to, conduct a review or appeal regarding allocation data provided by the department or the council of governments pertaining the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as permitted by this article.

(Added by Stats. 2004, Ch. 227, Sec. 59. Effective August 16, 2004.)

65584.3.

(a) A city that is incorporated to promote commerce and industry, that is located in the County of Los Angeles, and that has no residentially zoned land within its boundaries on January 1, 1992, may elect to adopt a housing element that makes no provision for new housing or the share of regional housing needs as determined pursuant to Section 65584 for the current and subsequent revisions of the housing element pursuant to Section 65588, for the period of time that 20 percent of all tax increment revenue accruing from all redevelopment projects, and required to be set aside for low- and moderate-income housing pursuant to Section 33334.2 of the Health and Safety Code, is annually transferred to the Housing Authority of the County of Los Angeles.

(b) (1) The amount of tax increment to be transferred each year pursuant to subdivision (a) shall be determined at the end of each fiscal year, commencing with the 1992–93 fiscal year. This amount shall be transferred within 30 days of the agency receiving each installment of its allocation of tax increment moneys, commencing in 1993.

(2) On or before December 31, 1992, the agency shall make an additional payment to the Housing Authority of the County of Los Angeles that eliminates any indebtedness to the low- and moderate-income housing fund pursuant to Section 33334.3. This amount shall be reduced by any amount actually expended by the redevelopment agency for principal or interest payments on agency bonds issued prior to the effective date of the act that adds this section, when that portion of the agency's tax increment revenue representing the low- and moderate-income housing set-aside funds was lawfully pledged as security for the bonds, and only to the extent that other tax increment revenue in excess of the 20-percent low- and moderate-income set-aside funds is insufficient in that fiscal year to meet in full the principal and interest payments.

(c) The Department of Housing and Community Development shall annually review the calculation and determination of the amount transferred pursuant to subdivisions (a) and (b). The department may conduct an audit of these funds if and when the Director of Housing and Community Development deems an audit appropriate.

(d) The amount transferred pursuant to subdivisions (a) and (b) shall fulfill the obligation of that city's redevelopment agency to provide for housing for low- and moderate-income families and individuals pursuant to Sections 33334.2 to 33334.16, inclusive, of the Health and Safety Code. The use of these funds for low- and moderate-income families in the region of the Southern California Association of Governments within which the city is located shall be deemed to be of benefit to the city's redevelopment project areas.

(e) (1) The amount transferred pursuant to subdivisions (a) and (b) to the Housing Authority of the County of Los Angeles shall be expended to provide housing and assistance, including, but not limited to, that specified in subdivision (e) of Section 33334.2 of the Health and Safety Code for low- and moderate-income families and individuals, in the region of the Southern California Association of Governments within which the city is located.

(2) Funds expended pursuant to this subdivision shall be expended in accordance with all of the following:

(A) The funds shall be expended for the construction of low- and moderate-income housing located no further than 15 miles from the nearest boundary line of the City of Industry.

(B) The low- and moderate-income housing constructed pursuant to this subdivision shall be in addition to any other housing required by the housing element of the general plan of the jurisdiction in which the low- and moderate-income housing is constructed.

(C) Funds may be encumbered by the Housing Authority of the County of Los Angeles for the purposes of this subdivision only after the authority has prepared a written plan for the expenditure of funds to be transferred to the authority pursuant to this subdivision and has

filed a copy of this expenditure plan with the Department of Housing and Community Development.

(f) A city that meets the conditions specified in subdivision (d) shall continue to have responsibility for preparing a housing element pursuant to Section 65583 only to the extent to which the assessment of housing needs, statement of goals and objectives, and the five-year schedule of actions relate to the city's plan to maintain, preserve, and improve the housing that exists in the city on the effective date of the act which adds this section.

(g) This section shall not become operative unless and until a parcel of land, to be dedicated for the construction of a high school, is transferred pursuant to a written agreement between the City of Industry and the Pomona Unified School District, and a copy of this agreement is filed with the County Clerk of the County of Los Angeles.

(Amended by Stats. 1998, Ch. 829, Sec. 32. Effective January 1, 1999.)

65584.6.

(a) The County of Napa may, during its current housing element planning period, identified in Section 65588, meet up to 15 percent of its existing share of the regional housing need for lower income households, as defined in Section 65584, by committing funds for the purpose of constructing affordable housing units, and constructing those units in one or more cities within the county, only after all of the following conditions are met:

(1) An agreement has been executed between the county and the receiving city or cities, following a public hearing held by the county and the receiving city or cities to solicit public comments on the draft agreement. The agreement shall contain information sufficient to demonstrate that the county and city or cities have complied with the requirements of this section and shall also include the following:

(A) A plan and schedule for timely construction of dwelling units.

(B) Site identification by street address for the units to be developed.

(C) A statement either that the sites upon which the units will be developed were identified in the receiving city's housing element as potential sites for the development of housing for lower-income households, or that the units will be developed on previously unidentified sites.

(D) The number and percentage of the county's lower-income housing needs previously transferred, for the appropriate planning period, pursuant to this section.

- (2) The council of governments that assigned the county's share receives and approves each proposed agreement to meet a portion of the county's fair share housing allocation within one or more of the cities within the county after taking into consideration the criteria of subdivision (a) of Section 65584. If the council of governments fails to take action to approve or disapprove an agreement between the county and the receiving city or cities within 45 days following the receipt of the agreement, the agreement shall be deemed approved.
- (3) The city or cities in which the units are developed agree not to count the units towards their share of the region's affordable housing need.
- (4) The county and the receiving city or cities, based on substantial evidence on the record, make the following findings:
- (A) Adequate sites with appropriate zoning exist in the receiving city or cities to accommodate the units to be developed pursuant to this section. The agreement shall demonstrate that the city or cities have identified sufficient vacant or underutilized or vacant and underutilized sites in their housing elements to meet their existing share of regional housing need, as allocated by the council of governments pursuant to subdivision (a) of Section 65584, in addition to the sites needed to construct the units pursuant to this section.
 - (B) If needed, additional subsidy or financing for the construction of the units is available.
 - (C) The receiving city or cities have housing elements that have been found by the Department of Housing and Community Development to be in compliance with this article.
- (5) If the sites upon which units are to be developed pursuant to this section were previously identified in the receiving city's housing element as potential sites for the development of housing sufficient to accommodate the receiving city's share of the lower income household need identified in its housing element, then the receiving city shall have amended its housing element to identify replacement sites by street address for housing for lower-income households. Additionally, the Department of Housing and Community Development shall have received and reviewed the amendment and found that the city's housing element continues to comply with this article.
- (6) The county and receiving city or cities shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.
- (7) For a period of five years after a transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer agreement, and information on any dwelling units actually constructed, including the number, type, location, and affordability requirements.
- (8) The receiving city demonstrates that it has met, in the current or previous housing element

cycle, at least 20 percent of its share of the regional need for housing for very low-income households allocated to the city pursuant to Section 65584.

(b) The credit that the county receives pursuant to this section shall not exceed 40 percent of the number of units that are affordable to lower income households and constructed and occupied during the same housing element cycle in unincorporated areas of the county. The county shall only receive the credit after the units have been constructed and occupied. Within 60 days of issuance of a certificate of occupancy for the units, the county shall inform the council of governments and the department in writing that a certificate of occupancy has been issued.

(c) Concurrent with the review by the council of governments prescribed by this section, the Department of Housing and Community Development shall evaluate the agreement to determine whether the city or cities are in substantial compliance with this section. The department shall report the results of its evaluation to the county and city or cities for inclusion in their record of compliance with this section.

(d) If at the end of the five-year period identified in subdivision (c) of Section 65583, any percentage of the regional share allocation has not been constructed as provided pursuant to subdivision (a), or, after consultation with the department, the council of governments determines that the requirements of paragraphs (5) and (7) of subdivision (a) have not been substantially complied with, the council of governments shall add the unbuilt units to Napa County's regional share allocation for the planning period of the next periodic update of the housing element.

(e) Napa County shall not meet a percentage of its share of the regional share pursuant to subdivision (a) on or after June 30, 2007, unless a later enacted statute, that is enacted before June 30, 2007, deletes or extends that date.

(Amended by Stats. 2000, Ch. 358, Sec. 1. Effective January 1, 2001.)

65585.

(a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department. The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

- (c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.
- (d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with the requirements of this article.
- (e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.
- (f) If the department finds that the draft element or draft amendment does not substantially comply with the requirements of this article, the legislative body shall take one of the following actions:
 - (1) Change the draft element or draft amendment to substantially comply with the requirements of this article.
 - (2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with the requirements of this article despite the findings of the department.
- (g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.
- (h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(Amended by Stats. 2000, Ch. 471, Sec. 2. Effective January 1, 2001.)

65587.

- (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.
- (b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto

substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

(d) (1) If a court finds that a city, county, or city and county failed to complete the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, as that deadline may be modified by the extension provided for in subdivision (f) of that section, the court shall issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court shall issue further orders to ensure that the purposes and policies of this article are fulfilled, including ordering, after considering the equities of the circumstances presented by all parties, that any rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 be completed within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed and may impose sanctions on the city, county, or city and county.

(2) Any interested person may bring an action to compel compliance with the deadlines and requirements of paragraphs (1), (2), and (3) of subdivision (c) of Section 65583. The action shall be brought pursuant to Section 1085 of the Code of Civil Procedure. In any such action, the city, county, or city and county shall bear the burden of proof.

(Amended by Stats. 2013, Ch. 767, Sec. 3. Effective January 1, 2014.)

65588.

(a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

- (3) The progress of the city, county, or city and county in implementation of the housing element.
- (b) The housing element shall be revised as appropriate, but no less often than required by subdivision (e), to reflect the results of this periodic review. Nothing in this section shall be construed to excuse the obligations of the local government to adopt a revised housing element in accordance with the schedule specified in this section.
- (c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.
- (d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:
- (1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.
 - (2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.
 - (3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.
 - (4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.
- (e) Each city, county, and city and county shall revise its housing element according to the following schedule:
- (1) (A) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.
 - (B) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.
 - (C) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth

revision.

(D) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2009, for the fourth revision.

(E) Local governments within the regional jurisdiction of the San Diego Association of Governments: June 30, 2005, for the fourth revision.

(F) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(2) (A) All local governments within a metropolitan planning organization in a region classified as nonattainment for one or more pollutants regulated by the federal Clean Air Act (42 U.S.C. Sec. 7506), except those within the regional jurisdiction of the San Diego Association of Governments, shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan to be adopted after September 30, 2010.

(B) (i) All local governments within the regional jurisdiction of the San Diego Association of Governments shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan update to be adopted after September 30, 2010.

(ii) Prior to or concurrent with the adoption of the fifth revision of the housing element, each local government within the regional jurisdiction of the San Diego Association of Governments shall identify adequate sites in its inventory pursuant to Section 65583.2 or rezone adequate sites to accommodate a prorated portion of its share of the regional housing need for the projection period representing the period from July 1, 2010, to the deadline for housing element adoption described in clause (i).

(I) For the fifth revision, a local government within the jurisdiction of the San Diego Association of Governments that has not adopted a housing element for the fourth revision by January 1, 2009, shall revise its housing element not less than every four years, beginning on the date described in clause (i), in accordance with paragraph (4), unless the local government does both of the following:

(ia) Adopts a housing element for the fourth revision no later than March 31, 2010, which is in substantial compliance with this article.

(ib) Completes any rezoning contained in the housing element program for the fourth revision by June 30, 2010.

(II) For the sixth and subsequent revisions, a local government within the jurisdiction of the San Diego Association of Governments shall be subject to the dates described in clause (i), in accordance with paragraph (4).

(C) All local governments within the regional jurisdiction of a metropolitan planning organization or a regional transportation planning agency that has made an election pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080 by June 1, 2009, shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan update following the election.

(D) All other local governments shall adopt the fifth revision of the housing element five years after the date specified in paragraph (1).

(3) Subsequent revisions of the housing element shall be due as follows:

(A) For local governments described in subparagraphs (A), (B), and (C) of paragraph (2), 18 months after adoption of every second regional transportation plan update, provided that the deadline for adoption is no more than eight years later than the deadline for adoption of the previous eight-year housing element.

(B) For all other local governments, at five-year intervals after the date specified in subparagraph (D) of paragraph (2).

(C) If a metropolitan planning organization or a regional transportation planning agency subject to the five-year revision interval in subparagraph (B) makes an election pursuant to subparagraph (M) of paragraph (2) of subdivision (b) of Section 65080 after June 1, 2009, all local governments within the regional jurisdiction of that entity shall adopt the next housing element revision no later than 18 months after adoption of the first regional transportation plan update following the election. Subsequent revisions shall be due 18 months after adoption of every second regional transportation plan update, provided that the deadline for adoption is no more than eight years later than the deadline for adoption of the previous eight-year housing element.

(4) (A) A local government that does not adopt a housing element within 120 days of the applicable deadline described in subparagraph (A), (B), or (C) of paragraph (2) or subparagraph (A) or (C) of paragraph (3) shall revise its housing element not less than every four years until the local government has adopted at least two consecutive revisions by the statutory deadline.

(B) If necessary, the local government shall adopt three consecutive four-year revisions by the statutory deadline to ensure that when the local government adopts its next housing element covering an eight-year planning period, it does so at the deadline for adoption for other local governments within the region also covering an eight-year planning period.

(C) The deadline for adoption of every second four-year revision shall be the same as the deadline for adoption for other local governments within the region.

(5) The metropolitan planning organization or a regional transportation planning agency for a region that has an eight-year revision interval pursuant to paragraph (3) shall notify the department and the Department of Transportation in writing of the estimated adoption date for its next regional transportation plan update at least 12 months prior to the estimated adoption date. The Department of Transportation shall maintain and publish on its Internet Web site a current schedule of the estimated regional transportation plan adoption dates. The department shall maintain and publish on its Internet Web site a current schedule of the estimated and actual housing element due dates. Each council of governments shall publish on its Internet Web site the estimated and actual housing element due dates, as published by the department, for the jurisdictions within its region and shall send notice of these dates to interested parties. For purposes of determining the existing and projected need for housing within a region pursuant to Sections 65584 to 65584.08, inclusive, the date of the next scheduled revision of the housing element shall be deemed to be the estimated adoption date of the regional transportation plan update described in the notice provided to the Department of Transportation plus 18 months.

(6) The new projection period shall begin on the date of December 31 or June 30 that most closely precedes the end of the previous projection period.

(f) For purposes of this article, the following terms have the following meanings:

(1) "Planning period" shall be the time period between the due date for one housing element and the due date for the next housing element.

(2) "Projection period" shall be the time period for which the regional housing need is calculated.

(g) For purposes of this section, "regional transportation plan update" shall mean a regional transportation plan adopted to satisfy the requirements of subdivision (d) of Section 65080.

(Amended by Stats. 2014, Ch. 298, Sec. 3. Effective January 1, 2015.)

65589.

(a) Nothing in this article shall require a city, county, or city and county to do any of the following:

(1) Expend local revenues for the construction of housing, housing subsidies, or land acquisition.

(2) Disapprove any residential development which is consistent with the general plan.

(b) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government to impose rent controls or restrictions on the sale of real property.

(c) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government with respect to measures that may be undertaken or required by a local government to be undertaken to implement the housing element of the local general plan.

(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.

(Added by Stats. 1980, Ch. 1143.)

65589.3.

In any action filed on or after January 1, 1991, taken to challenge the validity of a housing element, there shall be a rebuttable presumption of the validity of the element or amendment if, pursuant to Section 65585, the department has found that the element or amendment substantially complies with the requirements of this article.

(Added by Stats. 1990, Ch. 1441, Sec. 7.)

65589.4.

(a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative

declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

(i) A general plan.

(ii) A revision or update to the general plan that includes at least the land use and circulation elements.

(iii) An applicable community plan.

(iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health

and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, “attached housing development” means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include a second unit, as defined by paragraph (4) of subdivision (h) of Section 65852.2, or the conversion of an existing structure to condominiums.

(Amended by Stats. 2005, Ch. 598, Sec. 1. Effective January 1, 2006.)

65589.5.

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

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state’s housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing,

reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse

impact upon the public health or 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 or rendering the development of the emergency shelter financially infeasible. 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.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction’s housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local

agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise

authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(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 in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, “neighborhood commercial” means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) “Housing for very low, low-, or moderate-income households” means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) “Area median income” means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) “Disapprove the development project” includes any instance in which a local agency does either

of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. 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.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its

approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the

plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

(Amended by Stats. 2010, Ch. 610, Sec. 2. Effective January 1, 2011.)

65589.6.

In any action taken to challenge the validity of a decision by a city, county, or city and county to disapprove a project or approve a project upon the condition that it be developed at a lower density pursuant to Section 65589.5, the city, county, or city and county shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.

(Added by Stats. 1984, Ch. 1104, Sec. 1.)

65589.7.

(a) The housing element adopted by the legislative body and any amendments made to that element shall be immediately delivered to all public agencies or private entities that provide water or sewer services for municipal and industrial uses, including residential, within the territory of the legislative body. Each public agency or private entity providing water or sewer services shall grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households.

(b) A public agency or private entity providing water or sewer services shall adopt written policies and procedures, not later than July 1, 2006, and at least once every five years thereafter, with specific objective standards for provision of services in conformance with this section. For private water and sewer companies regulated by the Public Utilities Commission, the commission shall adopt written policies and procedures for use by those companies in a manner consistent with this section. The policies and procedures shall take into account all of the following:

(1) Regulations and restrictions adopted pursuant to Chapter 3 (commencing with Section 350) of

Division 1 of the Water Code, relating to water shortage emergencies.

(2) The availability of water supplies as determined by the public agency or private entity pursuant to an urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(3) Plans, documents, and information relied upon by the public agency or private entity that is not an “urban water supplier,” as defined in Section 10617 of the Water Code, or that provides sewer service, that provide a reasonable basis for making service determinations.

(c) A public agency or private entity that provides water or sewer services shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the public agency or private entity makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:

(1) The public agency or private entity providing water service does not have “sufficient water supply,” as defined in paragraph (2) of subdivision (a) of Section 66473.7, or is operating under a water shortage emergency as defined in Section 350 of the Water Code, or does not have sufficient water treatment or distribution capacity, to serve the needs of the proposed development, as demonstrated by a written engineering analysis and report.

(2) The public agency or private entity providing water service is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections.

(3) The public agency or private entity providing sewer service does not have sufficient treatment or collection capacity, as demonstrated by a written engineering analysis and report on the condition of the treatment or collection works, to serve the needs of the proposed development.

(4) The public agency or private entity providing sewer service is under an order issued by a regional water quality control board that prohibits new sewer connections.

(5) The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the public agency or private entity, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of a fee or charge imposed pursuant to Section 66013.

(d) The following definitions apply for purposes of this section:

(1) “Proposed developments that include housing units affordable to lower income households” means that dwelling units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and

Safety Code.

(2) “Water or sewer services” means supplying service through a pipe or other constructed conveyance for a residential purpose, and does not include the sale of water for human consumption by a water supplier to another water supplier for resale. As used in this section, “water service” provided by a public agency or private entity applies only to water supplied from public water systems subject to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code.

(e) This section is intended to neither enlarge nor diminish the existing authority of a city, county, or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water or sewer services shall neither invalidate any action or approval of a development project nor exempt a public agency or private entity from the obligations under this section. The special districts which provide water or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

(f) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is a matter of vital statewide importance.

(Amended by Stats. 2005, Ch. 727, Sec. 1. Effective January 1, 2006.)

65589.8.

A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

Nothing in this section shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units.

(Added by Stats. 1983, Ch. 787, Sec. 1.)

ATTACHMENT “HEU-10”

HCD, Housing Element Update Guidance Paper (2012)

HOUSING ELEMENT UPDATE GUIDANCE

December 2012



An effective housing element provides the necessary conditions to support the development and the preservation an adequate supply of housing, including housing affordable to seniors, families and workers. As the housing element is required to be regularly revised pursuant to a statutory schedule, the update process provides a vehicle for establishing and updating housing and land-use strategies reflective of changing needs, resources, and conditions. The housing element update can provide a mechanism to adopt land-use strategies such as infill, mixed-use, or downtown revitalization. It can also provide a vehicle for local governments to adopt effective housing and land-use strategies while addressing climate change and the reduction of greenhouse gas emissions.

As local governments begin the process to update their housing elements, the following are a few over-arching suggestions:

- Start with the existing plan. The update can build on what has been effective in the past.
- Immediately engage all critical stakeholders including tenants and homeowners, special needs populations, businesses, and real estate and housing providers and developers to ensure participation of all economic segments of the community.
- While the housing element must address specific State statutory requirements, including the local jurisdictions' fair share of the regional housing need, it is ultimately a local plan and should reflect the vision and priorities of the community.

The housing element update can also provide various opportunities for local governments, the state and stakeholders to collaborate on housing and land use plans. By promoting more transparency and partnerships in the process, for example, HCD can promote the efficient use of limited resources. By providing stakeholders with clarity in the update process such as making changes to the housing element available, local governments can better collaborate on key policy issues and save time in the update process.

This Update Guidance is intended to assist local governments and stakeholders with streamlined updates and HCD review for the fifth cycles of the housing element. HCD recognizes all levels of governments and stakeholders are facing resource challenges and HCD is seeking ways to create efficiencies and clarity for all parties in the housing element update process. While all local governments are still required to complete a housing element update, the Update Guidance is designed to reduce the number and scope of housing element submittals per jurisdiction and to focus resources on providing assistance to jurisdictions to ensure compliance and effectively addressing housing needs. For example, the Update Guidance provides clarity on the necessary contents for a complete housing element, necessary steps for updating a housing element and certainty on what will be reviewed by the Department where contents have changed. Further, to provide efficiencies when using the Update Guidance, the Department intends to review draft housing elements in less than 60 days (See Attachment 4) and grant priority for those jurisdictions utilizing the Streamlined Review process.

The Update Guidance is divided into two parts:

1. A Completeness Checklist; and
2. Streamlined Update template (for eligible jurisdictions as described below).

The Department will continue efforts to improve efficiencies and increase clarity such as improving technical assistance, particularly the Building Blocks, to provide more clarity in meeting statutory requirements. For example, technical assistance regarding the adequate sites requirement will be expanded to clarify statutory requirements and include tools and samples to assist meeting statutory requirements. Other efforts will include expanded regional coordination such as pre-approved data packets in coordination with Councils of Government for meeting some requirements under the housing needs assessment (See pages 25 and 26 of the Streamlined Update). Additional tools to assist in the housing element update process are available on the Department's website, including:

- Housing Element Law at:
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65580-65589.8>
- Building Blocks for Effective Housing Elements at:
http://www.hcd.ca.gov/hpd/housing_element2/index.php
- Links to model housing elements at:
http://www.hcd.ca.gov/hpd/housing_element2/BP_home.php
- Various technical assistance memos regarding statutory amendments and other relevant topics at:
<http://www.hcd.ca.gov/hpd/>
- Housing Element Update schedules, review letters and status information at:
<http://www.hcd.ca.gov/hpd/hrc/plan/he/>

Housing Element Completeness Checklist Review

Jurisdictions requesting Streamlined Update review (see below for explanation) must complete the Housing Element Completeness Checklist, and all jurisdictions are strongly encouraged to use the Checklist. The Checklist is provided to ensure that the updated element includes all components required by State housing element law. The purpose of the Checklist is to reduce subsequent submittals of draft housing elements by providing a guide for local governments to ensure the updated elements include all statutory components. The Checklist is also intended to be a useful mechanism for informing the public about the various statutory requirements of housing element law. The Checklist is included as Attachment 2 to this document.

HCD will conduct an initial completeness review of the draft housing element based on the contents of the Checklist. HCD's initial review for completeness will be limited to whether the element addresses each component required by the Housing Element statute. This initial completeness review will not evaluate the adequacy of information but merely whether the component was addressed. If HCD review staff finds that a housing element submittal does not include information addressing one or more of the statutory components, HCD will seek to notify the jurisdiction within 2 weeks (See Attachment 4) for immediate revision without further review. HCD will accept revisions within 7 days of notifications and complete its review of the contents of the housing element. If revisions are not received, HCD will complete its review, focusing specifically on those areas where information was provided to address the statutory components as outlined in the Completeness Checklist. Statutory components which are missing will be noted in the Department's letter without further review and the element will be out of compliance with statute. These missing components will be subject to review for content when complete in subsequent review(s) of the housing element.

Streamlined Update

For many local governments, much of the information in housing elements found to be in compliance with the statute for the previous planning period is still current and/or particular conditions and circumstances have not significantly changed since the last update. To provide a streamlined approach, both in the preparation of the updated element as well as in HCD's review, jurisdictions that adopted a housing element in the fourth cycle that HCD found in substantial compliance with State law may opt to use the Streamlined Update template (Attachment 3) to show where changes were made in the previously adopted housing element.¹ The Streamlined Update is a voluntary option and there are no implications in the Department's review of compliance for not using the Streamlined Update. For jurisdictions not choosing to use the Streamlined Update process or not eligible for the Streamlined Update process, the template (Attachment 3) can still be used as a valuable tool for outlining the necessary steps to update a housing element.

¹ If the Completeness Checklist (Attachment 2) and the Streamlined Update template (Attachment 3) are submitted to HCD or, as part of an agenda packet to a governing body or Planning Commission, they are considered public records.

The eligibility requirements to use the Streamlined Update are:

- A housing element for the previous planning was adopted and found to be in compliance with State housing element law by the Department (Housing Element compliance status for all jurisdictions is available on the Department's website at <http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf>).
- A complete updated housing element is submitted showing all changes. The changes can be shown through a variety of mechanisms as long as the changes can be identified such as by using strikeout, underline, redline, highlighting or other designation.
- Submittal of a Completeness Checklist (Attachment 2) and Streamlined Update template (Attachment 3).
- Answer Yes (or N/A as appropriate) to all questions in the Implementation Review (Attachment 1).
- Completion of the Streamlined Update template (Attachment 3), making revisions to the housing element, as necessary, to analyze changes in conditions, processes and program implementation actions. If it is determined no changes are necessary to a specific section, the Streamlined Update template must indicate such.

Use of the Streamlined Update does not relieve the jurisdiction of its obligation to address all statutory requirements of State housing element law, but rather provides a guide to updating the necessary portions of the housing element and facilitates State review of housing element submittals. For eligible jurisdictions, HCD review will rely upon the element in compliance in the prior planning period and will be limited to changes that have occurred since the prior planning period as indicated in the Streamlined Update template of Attachment 3. HCD will not review areas that have not changed since their content continues to be sufficient to meet statutory requirements. For example, a sites inventory and analysis includes a listing of sites and various analyses demonstrating suitability of those sites for development, among other requirements. The listing may only have minor changes and the various analyses such as how residential capacity is calculated can continue to be used in the updated housing element. HCD will not review the areas that have not changed and will focus its review on the minor updates, if any, to the inventory and analyses. However, any changes to the required analyses must be included for HCD review. HCD will also consider public comments as part of this review. See Attachment 4 for steps in the HCD review process and the process for submitting and considering public comments. Specifically, the Streamlined Update template option is applicable to the following areas only:

- Sites Inventory and Analysis
- Analysis of Governmental and Non-Governmental Constraints
- Housing Needs Assessment, including special needs groups (excluding the quantification and analysis of homeless individuals and families)
- Units At-Risk of Conversion to Market Rate
- General Plan Consistency
- Coastal Zone Housing

A jurisdiction may utilize the Streamlined Update process for any and all of these requirements as detailed in the Streamlined Update Template (Attachment 3). Part of the purpose of the Streamlined Update template is to provide guideposts for the necessary steps to update the housing element. For example, under Governmental Constraints there are several different types of constraints to be identified and analyzed including, but not limited to, fees, permit processing and land use controls. To update the Governmental Constraints section, a jurisdiction should evaluate if changes have occurred and whether the analyses require revision to analyze those changes. The guideposts in the Streamlined Update template show the necessary steps to evaluate changes. For instance, if a jurisdiction has not adopted changes to its permit processing procedures or land use controls, then the Streamlined Update should indicate that no changes have been made. If fees were increased since the adoption of the previous element, the Streamlined Update should indicate such by filling in the appropriate response in the applicable section and including the location of red lined or other highlighted revisions made to describe and analyze the fee schedule increases, if necessary. In some cases, the conclusion and analysis might not change. In this case, the Streamlined Update template would simply need to indicate Not Applicable (N/A).

Please note, however, the statute requires certain areas to be completely updated. These areas must be newly addressed every planning period. For example, a jurisdiction cannot simply update a public participation process from 8 years ago. It must be started again. For the following areas, the Streamlined Update is not available:

- Review and Revise
- Public Participation
- Programs and Quantified Objectives
- Any new statutory requirements since the prior update, including:
 - ✓ Government Code Section 65584.09 (Unaccommodated Need). See the Department's memo at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf. *
 - ✓ Government Code Section 65583 (a)(1) and others (Extremely Low Income Households).*
 - ✓ Government Code Sections GC 65583(a)(4) and others (Emergency Shelters and Transitional and Supportive Housing). See the Department's memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf. *
 - ✓ Government Code Sections 65583(f), 65588(e) (SB 375 Rezoning and Update Schedule). See the Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.
 - ✓ Government Code Section 65583.1 (Alternative Adequate Sites). See the Department's memo at http://www.hcd.ca.gov/hpd/hrc/plan/he/alt_adeq_sites082412.pdf
 - ✓ Government Code Section 65583(e) (Persons with Development Disabilities). See the Department's memo at <http://www.hcd.ca.gov/hpd/NoticeCoverLtrSB812.pdf>.

* These requirements may not be new for most jurisdictions. However, as these sections were enacted during the 4th cycle update for some jurisdictions, particularly those in San Diego County, they may not have been addressed in the 4th cycle updates.

Using the Streamlined Update Template

As noted above, the Streamlined Update template is intended to show the necessary steps for updating a housing element. To use the template, relevant page numbers need to be entered where changes have been made. Where no changes have been made or no changes in circumstances have been identified, the jurisdiction should indicate "N/A." Additional documentation, description or other narration is not necessary. For example, below is a sample section of a Streamlined Update template (Refer to Attachment 3 for the complete Streamlined Update Template form):

Potential Governmental and Non-governmental Constraints (Section 65583(a)(5 and 6)) (See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php)		
	Page(s) Where Changes Made	Indicate N/A If No Changes
<u>Land Use Controls</u> <ul style="list-style-type: none"> Update to show changes to land use controls including changes in residential zoning and/or development standards (e.g., heights and lot coverage, parking requirements, minimum unit sizes) 	Page 12	
<ul style="list-style-type: none"> Update to describe changes to growth controls or similar measures such as population caps or voter required general plan re-designations or voter required approval of changes in land use laws or regulations 	N/A	N/A

Identifying Changes in the Housing Element: For jurisdictions using the Streamlined Update template, the housing element must indicate where changes have been made. The changes can be identified in a variety of ways. For example, the element could highlight changes, electronically or manually. An asterisk or other indicator can be placed in the margin. Redlining/strikeout and underline is not required. Some elements might re-format tables or recalculate percentages due to updating data. In this case, redlining might not appear very useful. An alternative approach could be to simply highlight the table title or include a highlight in the margin or bold new text. The same approach would also be acceptable for jurisdictions re-formatting the entire document. Contact HCD for feedback on approaches to identifying changes.

Implementation Review

As noted above, jurisdictions must answer Yes (or N/A as appropriate) to all questions in the Implementation Review (Attachment 1) to be eligible for the Streamlined Update. The Implementation Review will be conducted by HCD to determine if jurisdictions are eligible for the Streamlined Update and will be completed within 2 weeks of receipt (See Attachment 4). Jurisdictions may contact HCD for feedback on meeting the Implementation Review requirements prior to submittal of the housing element.

The Implementation Review is not intended to result in additional analysis or evaluation than already required under housing element law nor is additional documentation required to complete the Implementation Review. Only Yes, No or N/A, program numbers and page numbers need to be entered into Attachment 1 and submitted to HCD. The Implementation Review should reference the relevant portions of the Review and Revise section which is already included in the housing element update (See Attachment 1, page 18). However, as required by statute, HCD will consider public comment on the Review and Revise section of the housing element.

To be eligible for the Streamlined Update, jurisdictions should complete the pertinent programs prior to submittal of the draft housing element. In some cases, jurisdictions may still be processing zoning amendments or other actions to meet the eligibility criteria under the Implementation Review. HCD will consider unique circumstances where amendments or actions are still in process but the jurisdictions would need to provide adequate documentation to ensure completion of the amendments prior to the housing element due date.

HCD will allow flexibility in meeting the rezoning and density bonus ordinance criteria under the Implementation Review. Specifically, for the density bonus ordinance, the jurisdiction must only have adopted an ordinance after January 1, 2005 (although agencies may want to update their ordinance to meet the latest 2008 amendments).

For rezoning, in some cases, a jurisdiction might not have completed rezoning precisely as envisioned in the program. In these cases, the jurisdictions will continue to meet the eligibility criteria in the Implementation Review as long as the statutory requirements for rezoning were met pursuant to Government Code Sections 65583(c)(1) and 65583.2(h) and (i) or if the shortfall of adequate sites was by some other means or action met such as sufficient units being built to accommodate the entire regional housing need for lower income households. In these cases, the jurisdiction must provide documentation in the Review and Revise section to demonstrate the objectives of the Implementation Review have been met.

Standard Review

If a housing element does not qualify for the Streamlined Update, HCD will review the housing element in its entirety rather than focusing its review on changes. However, HCD's goal is to provide more efficient housing element review of all housing elements and the Checklist and Streamlined Update are useful tools for all local governments, HCD and stakeholders to reduce time necessary to update, review and comment on a housing element. For example, use of the Checklist can reduce multiple reviews by ensuring all the statutory components are included and the Streamlined Update provides a useful guide to update the housing element and to highlight the changes made to the element from the 4th cycle.

Attachments

Attachment 1 – Implementation Review

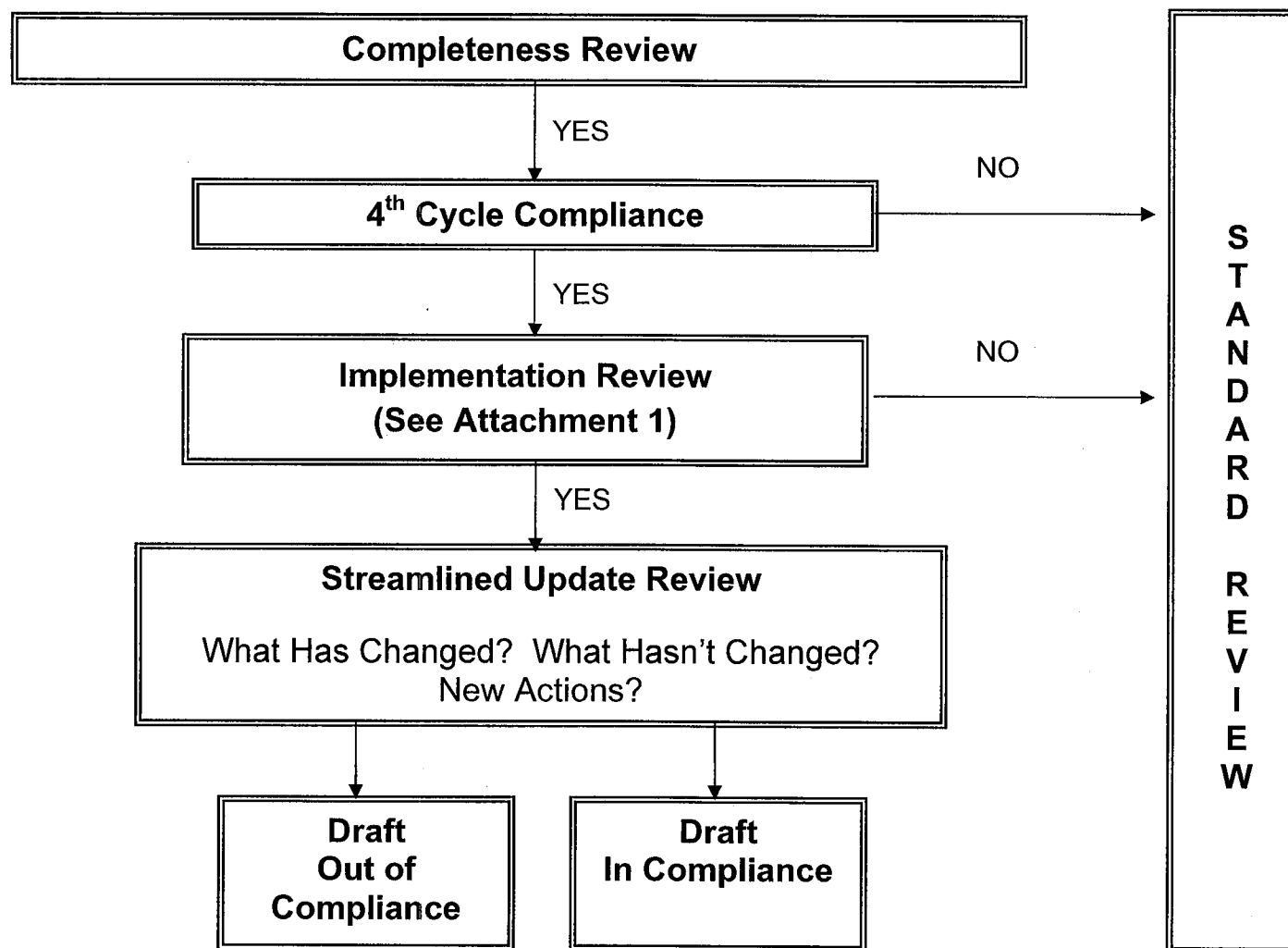
Attachment 2 – Housing Element Completeness Checklist

Attachment 3 – Housing Element Streamlined Update Template

Attachment 4 – Housing Element Review Process and Timeframes

CHART 1

Review Steps for HCD Standard and Streamlined Update Draft Reviews



Housing Element Update Guidance



Attachment 1: Implementation Review



Implementation Review

Jurisdiction Name:			
	Implementation Status	Program Number (If Applicable)	Page(s) Where Found
If the local government's previous housing element included a rezone program pursuant to GC Sections 65583(c), 65583.2 and 65584.09 to address a shortfall of adequate sites, has the program(s) to rezone been completed?	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A		
Does zoning permit emergency shelters without discretionary action or has a multijurisdictional agreement pursuant to Section 65583(d) been approved? ¹	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Does zoning permit transitional and supportive housing as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone? ²	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Are policies, ordinances or procedures established to allow reasonable accommodation for persons with disabilities in the application of zoning and land use policies, ordinances or procedures?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Has a density bonus ordinance been adopted pursuant to Government Code Section 65915 (since January 1, 2005)?	<input type="checkbox"/> YES <input type="checkbox"/> NO		

¹ These are not required where agencies adopted housing elements in the fourth cycle before the effective date of SB 2 (January 1, 2008). These agencies are primarily in San Diego County. Agencies should note "Housing Element Adopted Prior to SB 2" if this is the case.

Housing Element Update Guidance



Attachment 2: Completeness Checklist



Public Participation (Section 65583(c)(8))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php)

	Page(s)	Comments
Description of diligent effort to include all economic segments of the community and/or their representatives in the development and update of the housing element (e.g., types of outreach, meetings, appropriate languages, list of invitees and general comments and how they were incorporated)		

Review and Revise (Section 65588)

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/GS_reviewandrevise.php)

	Page(s)	Comments
Progress in implementation – A description of the actual results or outcomes of the prior element's goals (i.e., what happened), objectives, policies, and programs. Include quantification of results where possible (e.g., number of units rehabilitated) and may be qualitative where necessary (e.g., mitigation of governmental constraints)		
Effectiveness of the element – For each program, include an analysis comparing significant differences between what was projected or planned in the earlier element and what was achieved. Analyze the differences to determine where the previous housing element met, exceeded, or fell short of what was anticipated		
Appropriateness of goals, objectives, policies and programs – A description of what has been learned based on the analysis of progress and effectiveness of the previous element. A description of how the goals, objectives, policies, and programs in the updated element are being changed or adjusted to incorporate what has been learned from the results of the previous element		



Housing Needs Assessment (Section 65583(a)(1 and 2))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/HN_home.php)

	Page(s)	Data Source (if not identified in the housing element)	Comments
Quantification and analysis * of existing and projected housing needs			
Populations and employment trends, including documentation of projections			
Housing and Household characteristics, including: <ul style="list-style-type: none"> • Level of payment compared with ability to pay (overpaying households) • Housing stock conditions • Overcrowded households 			
Existing and projected needs for all income levels, including: <ul style="list-style-type: none"> • Regional Housing Need Allocation (RHNA) • Existing housing need for extremely low income households • Projected housing need for extremely low income households based on RHNA or Census (see Section 65583(a)(1)) 			
* Analysis is defined as a description and evaluation of specific needs, characteristics and resources available to address identified needs			



Persons with Special Needs (Section 65583(a)(7))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/HN_SHN_home.php)

	Page(s)	Data Source (if not identified in the element)	Comments
Identification and analysis of any special housing needs including:*			
• Elderly			
• Persons with disabilities, including developmental disabilities (See Memo at http://www.hcd.ca.gov/hpd/NoticeCoverLtrSB812.pdf)			
• Large households			
• Farmworkers (seasonal and permanent)			
• Female headed households			
• Homeless (annual and seasonal) **			
• Other			

* Analysis is defined as a description and evaluation of specific needs, characteristics and resources available to address identified needs
** See Section 65583(a)(7) for additional information regarding this requirement

At-risk Units (Section 65583(a)(9))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/EHN_atrisk.php)

	Page(s)	Comments
Inventory of at-risk units (10 years from the housing element due date) (Section 65583(a)(9)(A))		
Estimate of replacement versus preservation costs (Section 65583(a)(9)(B))		
Identification of qualified entities Section 65583(a)(9)(C))		
Identification of potential funding Section 65583(a)(9)(D))		

Note: Section 65583(a)(9) has many detailed requirements. Agencies with at-risk units should review the specific statutory requirements to ensure a complete analysis.



Potential Governmental and Non-governmental Constraints (Section 65583(a)(5 and 6))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php)

	Page(s)	Comments
<u>Potential Governmental Constraints</u>		
Include an analysis of actual and potential governmental constraints for each of the following:		
Land use controls (e.g., parking, lot coverage, heights, unit sizes, open space requirements, floor area ratios, growth controls (e.g., caps on units or population or voter approval requirements))		
Building codes and their enforcement (e.g., current CBC, any local amendments and local code enforcement programs)		
Site improvement requirements (e.g., street widths, etc.)		
Fees and other exactions (e.g., analyze all planning and impact fees and impact on total development costs)		
Local processing and permit procedures (e.g., typical processing times, permit types by housing type, decision-making criteria and bodies)		
Housing for persons with disabilities (e.g., definition of family, concentration requirements, reasonable accommodation procedures)		
Potential and actual constraints on the development of a variety of housing types for all income levels, including multifamily rental housing, factory-built housing, mobiles homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters and transitional housing		



	Page(s)	Comments
Local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need		
Local efforts to remove governmental constraints that hinder meeting the need for housing for persons with disabilities, supportive housing, transitional housing and emergency shelters		
Transitional housing and supportive housing as a residential use of property and subject only to those restrictions that apply to other residential dwellings of the same type in the same zone		
<u>Potential Non-governmental Constraints</u> Include an analysis of actual and potential non-governmental constraints for each of the following:		
Availability of financing		
Price of land		
Cost of construction		



Sites Inventory and Analysis (Section 65583(a)(3) and 65583.2))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/SIA_home.php)

	Page(s)	Comments
<p>Listing of properties by parcel number or other unique, reference showing for each parcel (Section 65583.2(b)(1) – (3):</p> <ul style="list-style-type: none"> • Size • General plan designation • Zoning category • For non-vacant sites, description of existing uses • Number of units that can be accommodated on each site 		
* Sites available for Above Moderate income households and not served by public sewer need not be identified on a site specific basis (Section 65583.2(b)(6))		
General description of environmental constraints to the development of housing (Section 65583.2(b)(4))		
General description of infrastructure (planned/available) including water, sewer and other dry utilities, including availability and access to distribution facilities (Section 65583.2(b)(5))		
<p>In determining the number of units on each site, indicate how the number of units was determined.</p> <ul style="list-style-type: none"> • If development is required at minimum density, indicate the number of units at the minimum density. No further analysis is required. • If development is not required at minimum density, demonstrate how the number of units were determined and adjust, if necessary, for local land use controls. 		



	Page(s)	Comments
For Non-vacant sites, specify the additional development potential for each site within the planning period and provide an explanation of the methodology to determine development potential considering factors, including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions and regulatory or other incentives to encourage additional residential development (Section 65583.2(b)(7))		
Demonstration of zoning to accommodate the housing need for lower income households (Section 65583.2(c)(3)) and (d) – (f))		
<ul style="list-style-type: none"> • Indicate those sites that can accommodate lower income households • Indicate those sites where the density allowed is at the “deemed appropriate” [default] density (65583.2(c)(3)(B)) • For sites that can accommodate lower income households, but with allowed densities less than the “deemed appropriate” density, provide analysis demonstrating how the adopted densities accommodate the need for lower income housing. The analysis must include: <ul style="list-style-type: none"> ○ Market demand ○ Financial feasibility ○ Project experience within a zone providing housing for lower income households (65583.2(c)(3)(A)) 		
Map of Sites included in the inventory (Section 65583.2(b)(7))		
Number of units built between the start of the projection period and the deadline for adoption of the housing element (Government Code Section 65583.1(d))		
Number of units proposed using alternative provisions such as rehabilitation, conversion, preservation or second units (Section 65583.1). See checklist at http://www.hcd.ca.gov/hpd/housing_element2/examples/655831Checklist.pdf		



	Page(s)	Comments
Identification of zoning for a variety of types:		
Multifamily rental housing		
Factory-built housing		
Mobilehomes		
Housing for agricultural employees		
Emergency shelters (See Section 65583(a)(4) and the Department's memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf)		
Transitional and supportive housing (See Section 65583(a)(5) and the Department's memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf)		
Carryover obligation (AB 1233: Section 65584.09 – See memo at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf)		



Quantified Objectives and Housing Programs (Section 65583(b) and (c)(1 through 6))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/PRO_home.php)

	Page(s)	Comments
Provide statement of quantified objectives (Section 65583(b)):		
<p>Maximum number of units, by income group, including extremely low-income of:</p> <ul style="list-style-type: none"> • new construction; • rehabilitation; and • conservation. 		
Include programs (Section 65583(c) and (c)(7)) with:		
<ul style="list-style-type: none"> • Schedule of specific actions; • Timeline for implementation with a beneficial impact in the planning period; and • Identification of agencies and officials responsible for implementing each program. 		
Program(s) providing adequate sites (Section 65583(c)(1)):		
Programs to rezone and any other programs needed to address a shortfall of sites to accommodate the regional housing need, if applicable, and any programs included pursuant to Section 65583.2(h) and (i) or carryover obligation pursuant to Section 65584.09		
Programs to rezone and any other programs needed to address a shortfall of capacity for housing for farmworkers that could not be accommodated on sites identified in the inventory, if applicable.		
If applicable, programs to facilitate a variety of housing types, including multifamily rental, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single room occupancy, emergency shelters and transitional and supportive housing		



	Page(s)	Comments
Programs to assist in the development of housing for extremely low, very low, low and moderate income households (Section 65583(c)(2))		
Program(s) to address governmental constraints (Section 65583(c)(3)):		
Programs to address governmental constraints and where appropriate and legally possible, to remove constraints to the maintenance, improvement and development of housing		
Program to remove constraints on housing for persons with disabilities and provide reasonable accommodation for housing for persons with disabilities		
Program(s) to conserve and improve the condition of the existing affordable housing stock (Section 65583(c)(4))		
Program(s) to promote housing opportunities for all persons (Section 65583(c)(5))		
Program(s) to preserve at-risk units (Section 65583(c)(6))		



Other Requirements

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/OR_home.php) and http://www.hcd.ca.gov/hpd/housing_element2/SIA_conservation.php)

	Page(s)	Comments
Description of general plan consistency (Section 65583(c)(7))		
Analysis of construction, demolition and conversion of housing for lower income households in the Coastal Zone (Section 65588)		
Description of opportunities for energy conservation in residential development (Section 65583(a)(8))		
Water and Sewer Priority (Section 65589.7) See the HCD Memo at http://www.hcd.ca.gov/hpd/memo_sb1087.pdf . *		
SB 5 and AB 162 (Flood Hazard Land Management) See the HCD Memo at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf *		
SB 244 (Disadvantaged Communities) See Governor's Office of Planning and Research for technical assistance at http://opr.ca.gov/ *		
* These are not required for a complete housing element and are not required to be part of the housing element and have been include as an information item to assist local governments in meeting requirements triggered by the housing element update schedule.		

Housing Element Update Guidance



Attachment 3: Streamlined Update Template



Housing Needs Assessment (Section 65583(a)(1 and 2)) (See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/HN_home.php)		
	Revised Page(s)	Indicate N/A If No Changes Were Necessary
Update quantification of population, employment, and housing stock needs including:		
• Population		
• Employment		
• Households		
• Overpayment (including lower-income)		
• Overcrowding		
• Extremely Low Income Households		
• Housing conditions		
Sources of information: <ul style="list-style-type: none"> • 2010 Census at http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t • American Community Survey at http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t • Department of Finance at http://www.dof.ca.gov/research/demographic/ • Applicable Federal Consolidated Plan • Available local and regional data (e.g., local census of homeless persons or shelter beds) 		
Special Note: If a jurisdiction has utilized a data packet pre-approved by HCD such as in SANDAG, SCAG and SACOG, mark N/A above where appropriate and indicate the data packet has been utilized. The Department will not review the portions noted in the applicable correspondence to the Council of Governments. Contact HCD for more details or questions.		
Update analysis and conclusions as necessary due to changes in population and households characteristics or other dynamics for population, employment, households, overpayment, overcrowding, extremely low income households and housing conditions		
Update policies and programs as necessary to reflect changes in the analysis and conclusions and other pertinent assessments of need such as the federal Consolidated Plan		



Persons with Special Needs (Section 65583(a)(7))

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/HN_SHN_home.php)

	Revised Page(s)	Indicate N/A If No Changes Were Necessary
Update quantification of special housing needs groups, including:		
• Persons with disabilities, including developmental		
• Elderly		
• Large households		
• Farmworkers (seasonal and permanent)		
• Female headed households		
• Homeless Individuals and Families		
<p>Sources of information:</p> <ul style="list-style-type: none"> • 2010 Census at http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t • American Community Survey at http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t • Department of Finance at www.dof.ca.gov/research/demographic • CA Department of Developmental Services at www.dds.ca.gov • Agricultural Census at http://www.agcensus.usda.gov/Publications/index.php • Applicable Federal Consolidated Plan and local and regional data (e.g., local census of homeless persons or shelter beds) <p>Special Note: If a jurisdiction has utilized a data packet pre-approved by HCD such as in SANDAG, SCAG and SACOG, mark N/A above where appropriate and indicate the data packet has been utilized. The Department will not review the portions noted in the applicable correspondence to the Council of Governments. Contact HCD for more details or questions.</p>		
Update analyses and conclusions, as necessary, due to changes in housing needs or other dynamics, for persons with special needs		
Quantify and analyze persons with developmental disabilities as required by Government Code Section 65583 (e) (See the Department's memo at http://www.hcd.ca.gov/hpd/NoticeCoverLtrSB812.pdf)		
Revise programs as appropriate including pursuant to Section 65583(e) (Developmental Disabilities) to address need based on revised data/analyses		



At-risk Units (Section 65583(a)(9)) (See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/EHN_atrisk.php)		
	Revised Page(s)	Indicate N/A If No Changes Were Necessary
Update the inventory of at-risk units , removing units no longer at risk and adding any additional units that are at-risk of conversion within 10 years from the start of the housing element planning period		
Special Note: If a jurisdiction has utilized SACOG's Housing Element Data to update the inventory, mark N/A where appropriate above and indicate the data has been used. The Department will not review the updated inventory. Contact HCD for more details.		
Analyze risk of updated inventory of at-risk units		
Evaluate the loss of any at-risk units		
Revise policies and programs as appropriate based on update analysis and conclusions		

Potential Governmental and Non-governmental Constraints (Section 65583(a)(5 & 6)) (See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php)		
	Revised Page(s)	Indicate N/A If No Changes Were Necessary
<u>Land Use Controls</u>		
<ul style="list-style-type: none"> Update to show changes to land use controls including changes in residential zoning and/or development standards (e.g., heights and lot coverage, parking requirements, minimum unit sizes, floor area ratios, density limits,) 		
<ul style="list-style-type: none"> Update to describe changes to growth controls or similar measures such as population or unit caps or voter required general plan re-designations or voter required approval of changes in land use laws or regulations 		



	Revised Page(s)	Indicate N/A If No Changes Were Necessary
<u>Building Codes and Enforcement</u> <ul style="list-style-type: none"> Update to describe changes to local building code, amendments and enforcement programs 		
<u>Site Improvements</u> <ul style="list-style-type: none"> Describe changes to site improvement requirements 		
<u>Permitting Processes and Procedures</u> <ul style="list-style-type: none"> Update to show revisions to processing and permit procedures for residential development (e.g., design review process, change in level of review (administrative vs. legislative review: ministerial vs. discretionary review)) 		
<u>Fees and Exactions</u> <ul style="list-style-type: none"> Update changes to fee schedules Update changes to other exactions 		
<u>Housing for Persons with Disabilities</u> Update to describe any new restrictions or revisions regarding approval of housing for persons with disabilities such as concentration requirements, limits on the number of unrelated persons or provisions for making reasonable accommodations		
<u>Non-governmental Constraints</u> Update land costs, financing availability and construction costs as necessary and consider other potential non-governmental constraints, such as resident or business opposition to development, as appropriate		



	Revised Page(s)	Indicate N/A If No Changes Were Necessary
<u>General (Changed Circumstances)</u> For each category above, update analyses, as needed, to reflect changes in conditions or circumstances such as market conditions, land costs, financing availability, and construction costs that effect the conclusions of the analyses on potential governmental constraints in the prior element		
<u>Programs to Mitigate Identified Constraints</u> <ul style="list-style-type: none"> Describe programs to mitigate identified constraints in the prior housing element Revise policies and programs as appropriate to address identified constraints 		

Sites Inventory and Analysis (Section 65583(a)(3) and 65583.2)) (See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/SIA_home.php)		
	Revised Page(s)	Indicate N/A If No Changes Were Necessary
Identify any changes to the sites inventory		
Update or include analysis or description as necessary to demonstrate zoning appropriate to accommodate housing for lower income households pursuant to Section 65583.2(c)(3) and (d) – (f)		
Update or include analysis or description as necessary to demonstrate the potential for redevelopment pursuant to Section 65583.2(b)(7)		
Analyze any new known environmental constraints or changed conditions and circumstances such as market conditions that affect the suitability of identified sites		
Update methodologies as necessary to estimate the residential capacity on identified sites		



	Revised Page(s)	Indicate N/A If No Changes Were Necessary
Revise analysis of existing and/or planned infrastructure capacity (e.g., water and sewer) to accommodate the regional housing need, if needed (e.g., capacity or availability has changed)		
Include a summary table of sites included in the inventory by income category in comparison to the RHNA and, if applicable, any carryover obligation (Section 65584.09)		
Add programs to rezone and any other programs needed to address a shortfall of sites to accommodate the regional housing need, if applicable, and any programs included pursuant to Section 65583.2(h) and (i) or carryover obligation pursuant to Section 65584.09		
Update analysis as necessary to demonstrate sufficient capacity to accommodate the need for emergency shelters		

Other Requirements

(See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/OR_home.php) and http://www.hcd.ca.gov/hpd/housing_element2/SIA_conservation.php)

	Revised Page(s)	Indicate N/A If No Changes Were Necessary
Update description to ensure consistency with other elements of the general plan if policies or programs have been adopted in other elements of the general plan affecting internal consistency		
Update to describe, as necessary, housing for lower or moderate income households that has been constructed, demolished or converted in the Coastal Zone		

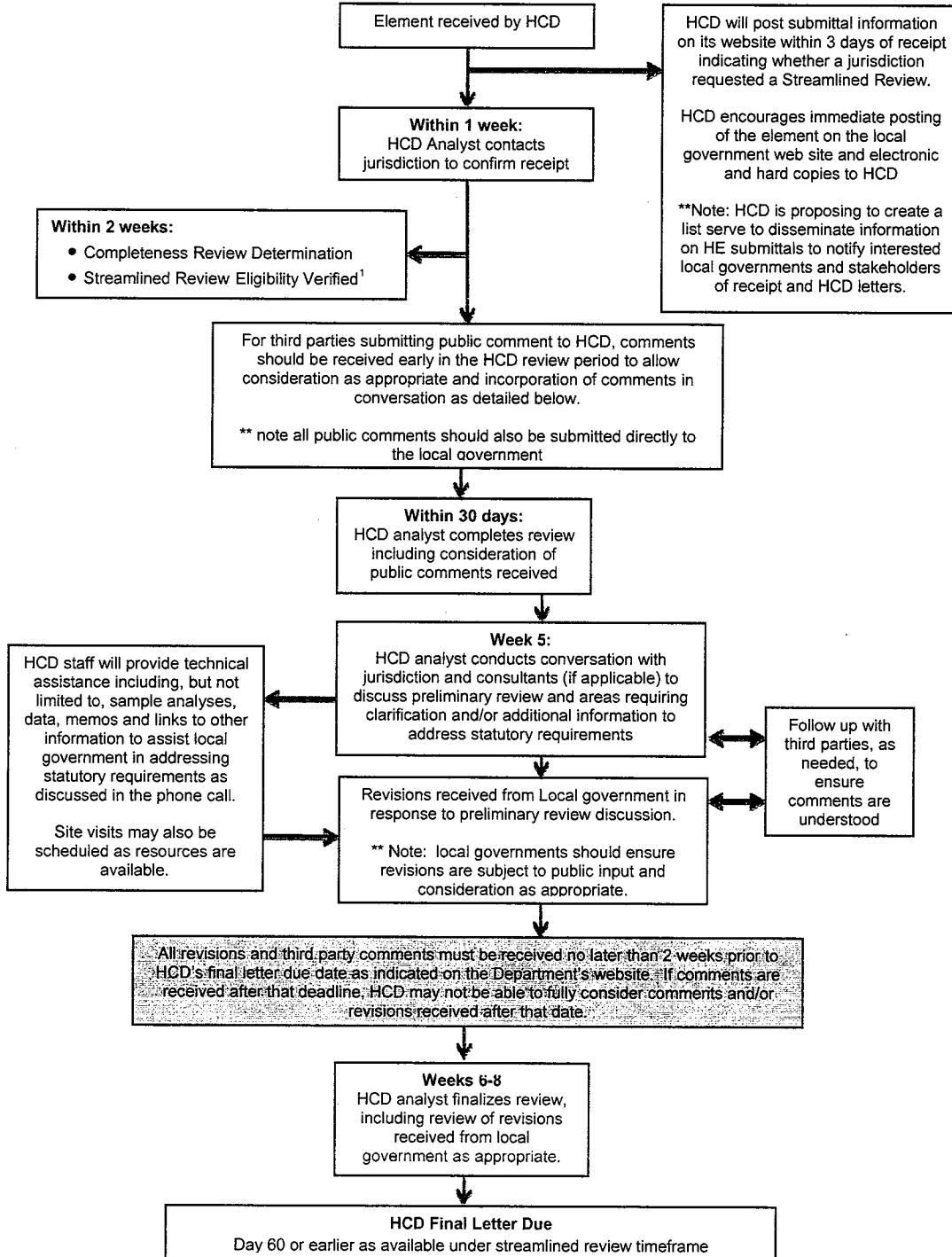
Housing Element Update Guidance



Attachment 4: HCD Housing Element Review Process

HCD Housing Element Review Process

The chart below is provided to detail general steps and applicable timeframes for typical draft housing element submittals and is meant to complement the flow chart provided in HCD's Housing Element Update Guidance detailing review steps for standard and streamlined draft reviews. The statute provides 60 days for HCD's review of draft housing element submittals. Uncertainty of workload and the number of submittals under review at a given time makes it difficult to commit to shorter timeframes for review of streamlined reviews. The Department will, however, grant priority review status for elements eligible to receive a streamlined update based on the criteria provided in the Department's Update Guidance. Provided resources are available, the Department anticipates streamlined reviews would be completed in less time than the timeline presented below.



¹ HCD is available to verify Streamlined Update eligibility in advance of submittal. If advance eligibility determination has been made, initial review step would consist of completeness review only.

ATTACHMENT “HEU-11”

HCD, Building Blocks for Housing Element Updates (2015)



Getting Started

[Previous](#) [Next](#)

Last Updated 5/6/2010

An effective housing element provides the necessary conditions for developing and preserving an adequate supply of housing, including housing affordable to seniors, families and workers. As the housing element is required to be regularly revised pursuant to a statutory schedule, the update process provides a vehicle for establishing and updating housing and land-use strategies reflective of changing needs, resources, and conditions. For example, the housing element update can provide a mechanism to adopt new efficient land-use strategies such as infill, mixed-use, or downtown revitalization. It can also provide a vehicle for local governments to adopt housing and land-use strategies to address climate change and the reduction of green house gas emissions. Most of the housing and land-use strategies adopted by local governments to meet their existing and projected housing needs also serve to effectively address climate change concerns. For example, promoting higher density, infill housing for low-income workers and housing along transit corridors also can significantly contribute to reductions in green house gas emissions.

As local governments begin the process to update their housing elements, keep the following in mind:

- Start with the existing plan. The update should build on what has been effective in the past.
- Immediately engage all critical stakeholders in the community including residents, special needs populations, businesses, and real estate and housing providers.
- While the housing element must address specific State statutory requirements, it is ultimately a local plan and should reflect the vision and priorities of the community.

BEFORE YOU START



PUBLIC PARTICIPATION



REVIEW AND REVISE





Housing Needs

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Last Updated 5/6/2010

Housing element law requires local governments to adequately plan to meet their existing and projected housing needs, including their share of the regional housing need. A complete analysis should include a quantification and a descriptive analysis of the specific needs and resources available to address identified needs.

EXISTING HOUSING NEEDS



SPECIAL HOUSING NEEDS



PROJECTED HOUSING NEEDS





Sites Inventory/Analysis

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Last Updated 5/6/2010

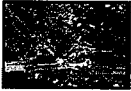
Government Code Section 65583(a)(3) requires local governments to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites. The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period.

Inventory of Land Suitable for Residential Development



The land inventory must identify specific sites suitable for the development of housing within the planning period and that are sufficient to accommodate the jurisdictions share of the regional housing need for all income levels. Land suitable for residential development includes vacant sites zoned for residential use, vacant sites zoned for nonresidential use that allow residential development, underutilized residential sites capable of being developed at a higher density, and sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use. [Learn more.](#)

Analysis of Sites and Zoning



To analyze the suitability of identified sites, the element must include an estimate of realistic capacity, demonstrate zoning and densities which encourage and facilitate the development of housing for lower-income households, and demonstrate non-vacant sites identified to accommodate the jurisdictions' regional housing need can be realistically developed within the planning period. The analysis must also analyze the suitability of the sites relative to environmental conditions or issues, and include a general description of the public infrastructure necessary to serve housing development. [Learn more.](#)

Zoning for a Variety of Housing Types



A housing element must demonstrate the availability of sites, with appropriate zoning, to encourage and facilitate a variety of housing types, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters and transitional housing. [Learn more.](#)

Second Units



In addition to identifying vacant or underutilized land resources, local governments can address a portion of their adequate sites requirement through the provision of second units based on the number of factors including the number of second units developed in the prior planning period, community need and resources and/or incentives available that will encourage the development. [Learn more.](#)

Adequate Sites Alternative



In addition to identifying vacant or underutilized land resources, local governments can address up to 25 percent of their adequate sites requirement, under prescribed conditions, units that are substantially rehabilitated, converted from market-rate to affordable, or where the affordability of certain multifamily housing units are preserved. [Learn more.](#)

Opportunities for Energy Conservation



The element must analyze the opportunities for energy conservation with respect to residential development. This section of the element provides an important resource for local governments to identify housing and land-use strategies that will not only address critical housing needs but also contribute to green house gas emission reductions and energy conservation goals. [Learn more.](#)



Constraints

[Previous](#) [Next](#)

Last Updated 5/6/2010

The element must identify and analyze potential and actual governmental constraints to the maintenance, improvement, or development of housing for all income levels, including housing for persons with disabilities. The analysis should identify the specific standards and processes and evaluate their impact, including cumulatively, on the supply and affordability of housing. The analysis should determine whether local regulatory standards pose an actual constraint and must also demonstrate local efforts to remove constraints that hinder a jurisdiction from meeting its housing needs.

Land-Use Controls



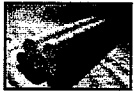
The constraint analysis must identify all relevant land-use controls such as zoning, development standards, and any growth controls and analyze impacts on the cost and supply of housing. An adequate evaluation must assess the cumulative impacts of standards, including whether such requirements impede the ability to achieve maximum allowable densities. [Learn more.](#)

Fees and Exactions



The element must identify permit processing and planning fees and development and impact fees and exactions for impacts on the cost, feasibility, and affordability of housing. The analysis should include an estimate of the average fees for typical multifamily and single-family developments. [Learn more.](#)

Processing and Permit Procedures



Permit processing requirements must be identified and analyzed for their impacts on housing supply, affordability and development certainty. The element must describe and analyze the types of permits required, by housing type, extent of discretionary review including required approval findings, procedures, and processing time required for residential development by zoning district and housing type. [Learn more.](#)

Codes and Enforcement and On/Off-Site Improvement Standards



The element must describe the building code adoption and enforcement process, including identification of any local amendments to the Uniform Building Code (UBC) and how building code enforcement is carried out by the jurisdiction. The element must also describe and analyze the impact of on- and off-site improvement standards including street widths, curb, gutter, and sidewalk requirements, landscaping, circulation improvement requirements and any generally applicable level of service standards or mitigation thresholds. [Learn more.](#)

Constraints-Housing for Persons with Disabilities



The housing element must identify governmental constraints to the development, improvement and maintenance of housing for persons with disabilities including identifying local efforts to remove any such constraints and identifying procedures for reasonable accommodations for persons with disabilities in zoning. [Learn more.](#)

Non-Governmental Constraints



Although non-governmental constraints are primarily market-driven and generally outside direct local government control, localities can significantly influence and offset the negative impact of non-governmental constraints. The element must analyze the impacts of the cost of land, construction costs, and the availability of financing. [Learn more.](#)



Program Requirements

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Programs are the specific action steps each locality will take to implement policies and achieve stated goals and objectives. Programs must include time frames, an identification of agencies and officials responsible, a description of the local government's specific role in implementation and whenever possible, specific measurable outcomes. Programs and policies should reflect the results of the local government's evaluation of existing and projected housing needs.

Program Overview and Quantified Objectives



To make adequate provision for the housing needs of all income levels, a jurisdiction must, identify programs to: (1) identify adequate sites, with appropriate zoning and development standards; (2) assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households; (3) address, and remove governmental constraints, including housing for persons with disabilities; (4) Conserve and improve the condition of the existing affordable housing stock; (5) Preserve assisted housing developments at-risk of conversion to market-rate; and (6) promote equal housing opportunities for all persons. Quantified objectives should estimate, by income level, the number of units likely to be constructed, rehabilitated or conserved/preserved during the planning period. [Learn more.](#)

Adequate Sites



Where the element does not demonstrate appropriately zoned sites sufficient to accommodate the regional housing need by income level, a program must be included to identify sites that can be developed within the planning period. Program actions to identify sites to accommodate a jurisdiction's regional housing need for lower-income households shall be zoned to permit owner-occupied and rental multifamily uses by-right and be zoned with minimum density and development standards that permit at least 16 units per site. In addition, zoning must be identified to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. [Learn more.](#)

Assist in the Development



Having assessed, identified, and prioritized the housing needs of extremely low-, very low-, low-, and moderate-income households, including special needs, the element must include program actions to assist in developing adequate housing to meet those needs. [Learn more.](#)

Conserve and Improve the Existing Housing Stock



The existing affordable housing stock is a valuable resource and the element must include programs to conserve and improve the existing affordable housing stock. Improvement includes physical activities that improve the housing stock such as rehabilitation. Conservation includes maintenance activity such as code enforcement and other actions, policies or programs to conserve the affordability of housing such as a mobilehome park preservation ordinance. [Learn more.](#)

Preserve Units At-risk of Conversion to Market Rate Uses



Many units of privately-owned, federally, State and locally assisted multifamily rental housing are at-risk of converting to non low-income uses. These at-risk units are occupied by elderly persons and families with lower-income who cannot afford to pay market-rate rents and could be displaced if the project converts. If the housing element has identified units at-risk, programs must be included to assist in the preservation of this important housing stock. [Learn more.](#)

Address and Remove or Mitigate Constraints



For each policy, procedure or requirement identified as a governmental constraint, the element must include programs to address and remove or mitigate the constraint. [Learn more.](#)

Equal Housing Opportunities



A local equal housing opportunity program should provide a means for the resolution of local housing discrimination complaints and disseminate fair housing information and resources throughout the community. The element should also address any zoning or other land-use laws or practices that either expressly discriminate against a group protected by the fair housing laws or have the effect of discriminating against a protected group. [Learn more.](#)



Other Requirements

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Analysis of Consistency with General Plan, Coastal Zone Requirements



As part of the housing element update, the goals, policies, and objectives of the housing element should be reviewed in the context of the rest of the elements of the general plan including the land-use, circulation, and open space elements, as well as zoning, and/or redevelopment and capital improvement plans to ensure the general plan is internally consistent. Communities located within coastal zones are required to review coastal zone affordable housing obligations including the preservation of existing occupied units affordable to low- or moderate-income households and where feasible include low- and moderate-income housing in new developments. [Learn more.](#)

Priority for Water and Sewer



Local public and/or private water and sewer providers must adopt written policies and procedures to grant a priority for service hook-ups to developments that help meet the community's share of the regional need for lower-income housing. Local governments should consult with water and sewer providers during the development and update of the housing element and immediately distribute a copy of the element to area water and sewer providers upon completion of an amended or adopted housing element. [Learn more.](#)

Redevelopment Low/Mod-Income Housing Fund



The housing element must include an estimate of the amount of funds expected to accrue to the Low and Moderate Income Housing Fund (LMIHF) and describe the planned uses for those housing funds over the current planning period. In addition, to the degree possible, for each program in the housing element where the Redevelopment Agency is the responsible agency for implementation, include the amount of redevelopment funds allocated or planned to be allocated to that program. [Learn more.](#)

Housing Element Annual Progress Report Requirements



Government Code Section 65400 requires each jurisdiction to annually prepare a report on the status and progress in implementing the housing element of the general plan using forms and definitions adopted by the Department of Housing and Community Development. The report must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1 of each year. [Learn more.](#)

ATTACHMENT “HEU-12”

Housing Element Best Practices



Housing Element Best Practices

Last Updated 5/21/2014

To provide additional assistance to jurisdictions preparing housing elements, the Building Blocks website has been enhanced to include complete housing elements from a variety of jurisdictions throughout the state. The Department has reviewed these elements and has found them in compliance with State housing element law. They represent some best practices of local governments in addressing housing and community development needs.

Name of Jurisdiction (Click on name for full element)	Type of Jurisdiction	Review Date	Key Features
El Cajon	Metropolitan Jurisdiction	9/9/2013	<ul style="list-style-type: none"> Recipient of California APA's Award of Merit for the Hard-Won Victories Recipient of the American Planning Association, San Diego Chapter's 2014 award for Best Comprehensive Plan-Small Jurisdiction
West Hollywood	Metropolitan Jurisdiction	1/14/2014	<ul style="list-style-type: none"> Fifth Housing Element Cycle – Adopted Element Format and Presentation clear and accessible to the public. Excellent Public Participation activities
City of Pasadena	Metropolitan Jurisdiction	2/24/2014	<ul style="list-style-type: none"> Fifth Housing Element Cycle – Adopted Element "Recipient of ULI's National 2014 Robert C. Larson Housing Policy Leadership Award" Format and Presentation clear and accessible to the public. Sites inventory clearly demonstrates how the City is accommodating the RHNA. Exemplary program actions demonstrating the beneficial impact requirement of SB 375.
Stanislaus County Regional Sustainability Toolbox: Model Housing Element Goals, Policies & Programs	County	11/2013	<ul style="list-style-type: none"> Regional tools
City of La Mesa	Metropolitan Jurisdiction	7/29/2012	<ul style="list-style-type: none"> Fifth Housing Element Cycle - Draft Element Includes SB 812 analysis
City of Eastvale	Metropolitan Jurisdiction	7/10/2012	<ul style="list-style-type: none"> First Housing Element for a newly incorporated city
City of Concord	Metropolitan Jurisdiction	1/10/2011	<ul style="list-style-type: none"> Sites inventory demonstrates potential of nonvacant sites' residential potential Program to adopt minimum densities to increase site capacity Describes potential for small lot consolidation and residential development Provides incentives for residential only development in commercial and mixed-use zoning districts
City of San Fernando	Suburban City	1/13/2010	<ul style="list-style-type: none"> Sites inventory clearly demonstrates how RHNA is accommodated. Through analysis of non-vacant sites. Detailed housing needs section - relates demographics to areas within the City to percentage of low-income residents to help the City target programs. Model public participation. Program to meet SB2 requirements.
San Luis Obispo County	County	6/12/2009	<ul style="list-style-type: none"> Format and Presentation clear and accessible to the public. Sites inventory clearly demonstrates how the County is accommodating the RHNA. Exemplary program actions to mitigate constraints.

Please note: While the analyses, strategies and programs in these elements are appropriate for the circumstances of the subject community, each jurisdiction must consider the unique circumstances of their community and population in developing appropriate strategies to address identified needs.