MEMORANDUM

DATE: July 26, 2010

TO: Housing Element Committee (HEC)

FROM: Lilly Schinsing, Associate Planner

SUBJECT: AB 2348 HCD Memo

At the July 12, 2010 HEC meeting there was a discussion regarding the required scope of analysis for the site inventory. After some research into the issue, Staff discovered the attached memo from HCD regarding AB 2348, which amended State housing element law in 2004 to clarify the land inventory requirements. Specifically, page 2 of the memo indicates that jurisdictions must include an "Inventory of Land Suitable for Residential Development" which includes the following:

- Vacant residentially zoned sites.
- Vacant non-residentially zoned sites that allow residential uses.
- Underutilized residentially zoned sites which are capable of being developed at a higher density or with greater intensity.
- Non-residential zoned sites that can be redeveloped for, and/or rezoned for, residential use (via program actions).

The HEC may discuss the implications (if any) of the memo on the current HEC work program and priorities.

Attachment: June 9, 2005 HCD Memorandum Regarding Amendment of State Housing Element Law – AB 2348

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Item 8c

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

MEMORANDUM

DATE: June 9, 2005

TO: Interested Parties

FROM: Cathy E. Creswell, Deputy Director
Division of Housing Policy Development

SUBJECT: **Amendment of State Housing Element Law – AB 2348**

INTRODUCTION

AB 2348 (Mullin), Chapter 724, Statutes of 2004, amended State housing element law to clarify the land inventory requirements and to provide greater residential development certainty. The amendments reflect consensus reform proposals and represents the culmination of over a year's work by a Housing Element Working Group (HEWG), convened by the Department. HEWG members included diverse stakeholders representing local governments, Council of Governments (COG), planners, builders, and affordable housing advocates. The HEWG met regularly between June 2003 and April 2004 and was able to reach consensus on the reform proposals included in Chapter 724 as well as significant reforms to the regional housing needs process signed into law in 2004 (Chapter 696, Statutes of 2004 [AB 2158-Lowenthal]). A collaborative spirit and commitment to improving housing opportunities in California enabled the HEWG to develop significant reform proposals and to break new ground on issues which had previously divided stakeholders. For more information about the HEWG process and membership, please see the *Housing Element Working Group Final Report - April 2004* posted on the Department's website at:
http://www.hcd.ca.gov/hpd/hrc/plan/he/hewrkgrprpt.pdf.

Chapter 724 includes amendments to State housing element law (Government Code Section 65583), and the Anti-NIMBY law (Government Code Section 65589.5. This technical assistance paper focuses on the revisions to housing element law and is provided to assist in evaluating how the new provisions of State law affect local government. Attachments to this paper (Appendix 1 & 2) describe all of the amendments enacted by Chapter 724. In addition, copies of published bills are available from the Legislative Bill Room by calling (916) 445-2323 or from the Senate's website at: www.senate.ca.gov. If you have any questions or would like additional information, please contact Paul McDougall or Don Thomas, of our staff, at (916) 445-4728.

Amendment of State Housing Element Law
(Chapter 724, Statutes of 2004 [AB 2348])

IDENTIFYING ADEQUATE SITES

Chapter 724 amended housing element law to clarify the relationship between the land inventory and adequate sites requirement (i.e., land resources), provide more specific guidance on the content of an adequate land inventory, and provide greater development certainty.

A. Inventory of Land Suitable for Residential Development:

The first step in identifying adequate sites is preparing an inventory of land suitable for residential development. Chapter 724 established Government Code Section 65583.2(a)[1] to specifically provide that land suitable for residential development includes the following:

- Vacant residentially zoned sites.
- Vacant non-residentially zoned sites that allow residential uses.
- Underutilized residentially zoned sites which are capable of being developed at a higher density or with greater intensity.
- Non-residential zoned sites that can be redeveloped for, and/or rezoned for, residential use (via program actions).

The land inventory must specifically include (Section 65583.2(b)):

- Parcel-specific listing of available sites, including parcel number or other "unique" reference. The element should also include a map showing the location of sites. In terms of scale, a jurisdiction's general plan land-use map will suffice.
- The general plan and zoning designations, along with a description of the size of each parcel listed in the inventory. An indication of parcel size is important as it can be a key factor in determining development viability, capacity and affordability. The inventory should evaluate the realistic potential for additional residential development of very small sites. For example, the inventory analysis should evaluate whether sites as small as ¼ acre, zoned for multifamily, can encourage and facilitate development of housing affordable to lower-income households. To demonstrate the development viability of small or substandard parcels, the element must describe the jurisdiction's role or track record in facilitating small-lot development and where necessary include program actions for lot consolidation and/or parcel assemblage.
- If a jurisdiction includes non-vacant sites in the inventory, the housing element must describe the existing uses.
- Environmental Constraints: The element should include a general description of any constraints to the development of residential projects. The element need only describe those environmental constraints where documentation of such conditions has been made available to the local government. This information does not have to be provided on a site specific basis. However, the analysis must clearly demonstrate the identified sites can accommodate projected residential capacities and future residential development (i.e., within the planning period).

[1] All future code references refer to the Government Code unless otherwise noted.

- Infrastructure: The element must include a general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities, and indicate whether public or private. A site specific analysis is not required. The element must include sufficient detail to determine whether water delivery systems and sewer treatment capacity is or will be (i.e., within the planning period) available to the identified sites. However, if parcel specific detail is available, this information could be included in the element.
- Sites identified in the inventory as being available for housing to accommodate the regional housing need for above moderate-income households, but located in areas not served by public sewer systems, need not be listed parcel by parcel.

B. Land Inventory Analysis

The second step in identify adequate sites involves determining which sites identified in the inventory are available and suitable to accommodate a portion of the jurisdiction's share of the regional housing need, by income level, during the planning period of the element (Section (65583.2(c)).

The analysis must also demonstrate the inventory can provide for a variety of housing types including multifamily rental, factory-built, mobilehomes, farmworker, and transitional housing and emergency shelters.

1. Capacity

To establish the number of housing units that can potentially be accommodated on each site the analysis should include the following:

A description of how the capacity of the identified sites has been established. If a jurisdiction has adopted, through regulations or ordinance, minimum density requirements that explicitly prohibit development below the minimum density, the Department will accept the local government's calculation of the total housing unit capacity on that site based on the established minimum density.

However, if minimum densities have not been adopted the element must describe the methodology used to establish the number of units. The estimates of capacity must be adjusted based on the land-use controls and site improvement requirements imposed. For example, a jurisdiction must consider the imposition of maximum lot coverage requirements, open space, parking, and FARs, when establishing its realistic unit capacity, rather than relying on a theoretical number based on maximum buildout.

2. **Affordability**

To establish the number of units that can accommodate the local government's share of the regional housing need for lower-income households, the analysis must demonstrate the identified zone/densities encourage and facilitate the development of housing for lower-income households.

The element's analysis must consider, but need not be limited to: (1) market demand and trends, (2) financial feasibility, and (3) information based on residential project experience within a zone(s) where the densities facilitated the development of housing for lower-income households. For, example information garnered from local developers, and examples of recent residential projects that currently provide housing for lower-income households may be helpful in establishing the appropriateness of the zone. Also, it is recognized that cities and counties rely on subsidies to increase the affordability of residential projects. However, identifying examples of low density subsidized projects, alone, is not appropriate to demonstrate the adequacy of a zone and/or density to accommodate the projected needs of lower-income households. It should also be noted that residential buildout projections resulting from the implementation of a jurisdiction's inclusionary program are not a substitute for addressing the "adequate sites" requirement.

As an alternative to the above analyses, Chapter 724 established "default" density standards. Specifically, if a local government has adopted density standards consistent with the population based criteria summarized in Table A (as described in Appendix 1), the Department is obligated to accept sites with those density standards as appropriate for accommodating the jurisdictions share of regional housing need for lower-income households. For example, a city within Sacramento County with a population less than 100,000 will be presumed to have sites appropriate to accommodate lower-income households if the zone allows **at least** 20 units per acre. A jurisdiction specific listing is found in Appendix 1.

3. **Suitability Analysis for Non-Vacant Sites**

Pursuant to Section 65583.2(g), if the inventory identifies non-vacant sites to address a portion of the regional housing need, the element must describe the additional realistic development potential within the planning period. The analysis must describe the methodology used to establish the development potential of non-vacant sites including:

- The extent to which existing (active) uses may constitute an impediment to additional residential development. For example, if the site is occupied by an existing operating use, such as school, a nursery, etc., the element should describe the condition or age of existing development and describe the potential for such uses to be discontinued and replaced with housing, or provide a clear indication of whether housing could be added to the existing use (such as adding second story residential to ground floor retail). Also, the analysis should evaluate whether the reuse or redevelopment of such a site would require lot consolidation to allow additional residential development.

- Describe recent development trends. The element should describe the jurisdiction's current recycling or redevelopment trends, as well as a description of its track record in encouraging and facilitating redevelopment, adaptive reuse or recycling.
- Market conditions. The analysis should describe if the market is ripe for redevelopment or reuse. For example, high land and construction costs in concert with limited supplies of available and developable land resources could promote the market conditions necessary to facilitate more compact and efficient residential development.
- Describe existing or proposed incentives. The analysis should describe any existing or planned financial assistance or regulatory relief from development standards to encourage and facilitate additional or more intensive residential development on the identified underutilized sites.

TABLE "A"

Default Densities Appropriate to Accommodate Housing for Lower-Income Households by Region

I Incorporated Cities within nonmetropolitan/rural counties (as outlined in either Section I or II) and Nonmetropolitan counties with micropolitan areas (listed below)	II Unincorporated areas in all nonmetropolitan counties not included under I	III Suburban jurisdictions	IV Metropolitan jurisdictions
Nonmetropolitan counties with micropolitan areas include: Del Norte Humboldt Inyo Lassen Lake Mendocino Nevada Tehama Tuolumne	Nonmetropolitan/rural counties as listed below (list excludes those counties including micropolitan areas as outlined in section I) Alpine Amador Calaveras Colusa Glenn Mariposa Modoc Mono Plumas Sierra Siskiyou Trinity	Jurisdictions (cities/counties) located within a Metropolitan Statistical Area (MSA) with a population of less than 2 million as listed below ***unless*** a **city** has a population of greater than 100,000 in which case it would be considered metropolitan. Butte, El Dorado Fresno, Imperial Kern, Kings Madera, Merced Monterey, Napa Placer, Sacramento San Benito, San Joaquin San Luis Obispo Santa Barbara, Santa Clara Santa Cruz, Shasta Solano, Sonoma Stanislaus, Sutter Tulare, Ventura Yolo, Yuba	Jurisdictions (cities/counties) located within a Metropolitan Statistical Area (MSA) with a population of more than 2 million as listed below ***unless*** a **city** has a population of less than 25,000 in which case it would be considered suburban. Alameda Contra Costa Los Angeles Marin Orange Riverside San Bernardino San Diego San Francisco San Mateo
at least 15 du/ac	**at least 10 du/ac**	**at least 20 du/ac**	**at least 30 du/ac**

Metropolitan Statistical Area: Qualification of an MSA requires the presence of a city with 50,000 or more inhabitants, or the presence of an Urbanized Area (UA) and a total population of at least 100,000

Mircopolitan: Urban cluster of at least 10,000 population but fewer than 50,000 population

Source: OMB Bulletin No. 04-03 http://www.whitehouse.gov/omb/bulletins/fy04/b04-03.html

C. ***Adequate Sites Program***:

The final step in the adequate sites analysis should determine whether the inventory has identified sufficient sites to accommodate the local government's regional housing need, in total and by income level, within the planning period. As specified in Government Code Sections 65583, this includes sites that will allow for the development of a variety of housing types including multifamily rental housing, factory-built or mobilehomes, housing for farmworkers, and transitional housing and emergency shelters. Pursuant to Government Code Sections 65583(c)(1) (A), and 65583(c)(1) (B), if the inventory identifies a shortfall of sites, the element must include a program to identify sites that can be developed with housing within the planning period. These sites must be appropriately zoned, early enough in the planning period, to provide realistic and viable development opportunities.

As with the prior requirements, where the analysis of a local government's land inventory does not demonstrate the supply of suitable, available, and appropriately zoned sites are sufficient to accommodate the regional housing need by income level, the element must include a program that provides sufficient sites within the planning period. Chapter 724 clarified the adequate sites program and strengthened the requirement to provide sites with zoning that permits owner-occupied and rental multifamily residential uses by-right.

More specifically, an "adequate sites" program action must commit a jurisdiction to accommodating 100 percent of the shortfall of sites necessary to accommodate the remaining housing need for housing for very low- and low-income households during the planning period. Further, the program action must ensure the jurisdiction's zoning ordinance allows owner-occupied and rental multifamily residential uses "by right". In addition, Chapter 724 requires the adequate site program provided minimum densities and development standards that permit the development of at least 16 units per site. Incorporated cities within nonmetropolitan counties and (2) nonmetropolitan counties that have micropolitan areas must allow **densities of at least 16 dwelling units per acre.** These counties include Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne. Suburban and metropolitan jurisdictions as defined in Government Code Section 65583.2(c)(3)(B)(iii) and (iv) (refer to Table "A") must provide sites that allow at least **20 dwelling units per acre.**

When relying on program(s) to accommodate the regional share need for lower-income households, Chapter 724 requires that at least 50 percent of the low- and very low-income regional housing need be accommodated on sites designated for ***exclusively*** residential uses, at appropriate densities.

"**By right" Program Requirement:** Current law requires a local government, with a shortfall of appropriately zoned land to accommodate its regional share need for lower-income households, to include a program to provide sites with zoning that permits owner-occupied and rental multifamily development by right. Chapter 724 strengthened the requirement to establish that for the purposes of housing element law, by-right shall mean the local government's review may not require:

- a conditional use permit,
- a planned unit development permit, or

- other discretionary local government review or approval that would constitute a "project" for the purposes of Division 13 (commencing with Section 21100) of the Public Resources Code.

This provision does not preclude local planning agencies from imposing design review standard. However, the review and approval process must remain ministerial and the design review must not constitute a "project" as defined in the Section 21100 of the Public Resources Code. For example, a hearing officer (e.g., Zoning Administrator) or other hearing body (e.g., Planning Commission) can review the design merits of a project and call for a project proponent to make design-related modifications, but cannot deliberate the project's merits or exercise judgment to reject or deny the "residential use" itself.

D. Counting Existing Units towards the Adequate Sites Requirement

Chapter 724 also amended the provisions of the law (Section 65583.1) that allow local governments to count existing units toward meeting up to 25 percent of their regional housing need. Under limited circumstances, a local government may credit existing units that will be: (1) substantially rehabilitated, (2) units in a multifamily rental housing complex of 4 or more units that are converted from non-affordable to affordable, or (3) units that will be preserved at affordable housing costs to low- or very low-income households, where the local government has provided those units with committed assistance. Please see the attached copy of the statute for complete descriptions of this section of the law. The amendments of Chapter 724 provide some additional flexibility to facilitate the usefulness and applicability of the provisions. These changes include:

Substantial Rehabilitation: Previously, local governments could only count units that had been citied and found to be unfit for human habitation and vacant for not less than 120 day. Chapter 724 no longer requires the unit to be vacant. However, local governments must now commit to providing displaced tenants not otherwise eligible for relocation assistance under State relocation law, with assistance consistent with that required under Health and Safety Code Section 17975, including a minimum of four months rent and moving expenses and comparable replacement housing.

Prior requirements mandated rehabilitated units have long term affordability restrictions for at least 20 years or the period of time required by any applicable federal or State law or regulation. If the affordability term was between 20 and 10 years, local governments could only receive credit for one unit for every three provided, and for units with less than 10 years affordability, no credit was provided. Chapter 724 eliminated the last two provisions. Now local governments will get full credit for any substantially rehabilitated units with 20-year terms of affordability or any other term applicable to the federal or State funding law or regulation.

Conversion from Market-Rate to Affordable: Previously, only projects of 16 or more units could qualify for crediting. Chapter 724 reduced the qualifying size threshold from 16 units to 4 to provide credit for local government's efforts to provide affordable housing opportunities in smaller projects. Chapter 724 also eliminated the requirement that limited jurisdictions from spending "greater than 120 percent of the area median price for housing" for the units to be acquired and extended the affordability restrictions from 30 to 55 years (consistent with most funding resources).

APPENDIX 1

Listing of Default Densities by Jurisdiction

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APPENDIX 1
Housing Element Default Densities for Accomodating Lower-Income Households
Government Code § 65583.2
(Data is provided for informational purposes only)

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
Alameda	IV	Alameda	72,927				X
		Alameda County	137,357				X
		Albany	16,628			X	
		Berkeley	103,640				X
		Dublin	34,345				X
		Emeryville	7,427			X	
		Fremont	206,856				X
		Hayward	142,718				X
		Livermore	76,629				X
		Newark	43,331				X
		Oakland	402,777				X
		Piedmont	11,036			X	
		Pleasanton	66,151				X
		San Leandro	80,609				X
		Union City	69,879				X
Alpine	II	Alpine County	1,200	X			
Amador	II	Amador	215		X		
		Amador County	21,524	X			
		Ione	7,450		X		
		Jackson	4,084		X		
		Plymouth	1022		X		
		Sutter Creek	2,362		X		
Butte	III	Biggs	1,811			X	
		Butte County	95,971			X	
		Chico	65,904			X	
		Gridley	5,663			X	
		Oroville	13,111			X	
		Paradise	26,743			X	
Calaveras	II	Angels City	3,422		X		
		Calaveras County	39,556	X			
Colusa	II	Colusa	5,553		X		
		Colusa County	9,911	X			
		Williams	3,848		X		
Contra Costa	IV	Antioch	99,870				X
		Brentwood	31,527				X
		Clayton	11,037			X	
		Concord	125,225				X
		Contra Costa County	157,569				X
		Danville	42,565				X
		El Cerrito	23,513			X	
		Hercules	20,232			X	
		Lafayette	24,546			X	
		Martinez	36,707				X
		Moraga	16,686			X	
		Oakley	26,206				X
		Orinda	18,069			X	

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Pinole	19,439			X	
		Pittsburg	60,525				X
		Pleasant Hill	33,537				X
		Richmond	102,553				X
		San Pablo	30,990				X
		San Ramon	46,217				X
		Walnut Creek	65,345				X
Del Norte	I	Crescent City	7,242		X		
		Del Norte County	20,240		X		
El Dorado	III	El Dorado County	131,647			X	
		Placerville	10,124			X	
		South Lake Tahoe	23,973			X	
Fresno	III	Clovis	74,503			X	
		Coalinga	16,051			X	
		Firebaugh	5,993			X	
		Fowler	4,282			X	
		Fresno	445,227				X
		Fresno County	167,936			X	
		Huron	6,917			X	
		Kerman	9,344			X	
		Kingsburg	10,060			X	
		Mendota	8,268			X	
		Orange Cove	8,678			X	
		Parlier	12,293			X	
		Reedley	21,231			X	
		San Joaquin	3,482			X	
		Sanger	19,829			X	
		Selma	20,538			X	
Glenn	II	Glenn County	14,120	X			
		Orland	6,283		X		
		Willows	6,220		X		
Humboldt	I	Arcata	16,663		X		
		Blue Lake	1,141		X		
		Eureka	25,866		X		
		Ferndale	1,379		X		
		Fortuna	10,701		X		
		Humboldt County	67,960		X		
		Rio Dell	3,140		X		
		Trinidad	309		X		
Imperial	III	Brawley	21,842			X	
		Calexico	30,746			X	
		Calipatria	7,513			X	
		El Centro	37,684			X	
		Holtville	5,550			X	
		Imperial	8,093			X	
		Imperial County	32,715			X	
		Westmorland	2,105			X	
Inyo	I	Bishop	3,624		X		
		Inyo County	14,590		X		
Kern	III	Arvin	13,654			X	
		Bakersfield	260,969				X
		California City	9,351			X	

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COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Delano	42,092			X	
		Kern County	275,696			X	
		Maricopa	1,140			X	
		McFarland	9,974			X	
		Ridgecrest	25,332			X	
		Shafter	13,410			X	
		Taft	8,903			X	
		Tehachapi	11,042			X	
		Wasco	22,496			X	
Kings	III	Avenal	15,333			X	
		Corcoran	20,929			X	
		Hanford	44,350			X	
		Kings County	33,355			X	
		Lemoore	21,076			X	
Lake	I	Clearlake	13,971		X		
		Lake County	42,895		X		
		Lakeport	5,104		X		
Lassen	I	Lassen County	16,296		X		
		Susanville	17,711		X		
Los Angeles	IV	Agoura Hills	21,704			X	
		Alhambra	87,655				X
		Arcadia	54,904				X
		Artesia	16,755			X	
		Avalon	3,315			X	
		Azusa	46,323				X
		Baldwin Park	77,828				X
		Bell	37,359				X
		Bell Gardens	45,270				X
		Bellflower	74,525				X
		Beverly Hills	34,857				X
		Bradbury	922			X	
		Burbank	102,913				X
		Calabasas	20,689			X	
		Carson	92,929				X
		Cerritos	52,620				X
		Claremont	34,831				X
		Commerce	13,118			X	
		Compton	95,559				X
		Covina	48,019				X
		Cudahy	25,164				X
		Culver City	39,698				X
		Diamond Bar	57,919				X
		Downey	109,840				X
		Duarte	22,072			X	
		El Monte	119,918				X
		El Segundo	16,385			X	
		Gardena	59,657				X
		Glendale	199,430				X
		Glendora	50,567				X
		Hawaiian Gardens	15,236			X	
		Hawthorne	85,934				X
		Hermosa Beach	19,281			X	
		Hidden Hills	1,959			X	

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COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Huntington Park	62,976				X
		Industry	787			X	
		Inglewood	114,959				X
		Irwindale	1,476			X	
		La Canada Flintridge	20,857			X	
		La Habra Heights	5,916			X	
		La Mirada	48,478				X
		La Puente	42,007				X
		La Verne	32,711				X
		Lakewood	81,051				X
		Lancaster	124,592				X
		Lawndale	32,388				X
		Lomita	20,482			X	
		Long Beach	472,412				X
		Los Angeles	3,798,981				X
		Los Angeles County	1,025,890				X
		Lynwood	71,387				X
		Malibu	13,086			X	
		Manhattan Beach	35,501				X
		Maywood	28,710				X
		Monrovia	37,848				X
		Montebello	63,607				X
		Monterey Park	61,822				X
		Norwalk	106,084				X
		Palmdale	124,346				X
		Palos Verdes Estates	13,750			X	
		Paramount	56,489				X
		Pasadena	139,712				X
		Pico Rivera	64,859				X
		Pomona	153,555				X
		Rancho Palos Verdes	42,126				X
		Redondo Beach	65,793				X
		Rolling Hills	1,918			X	
		Rolling Hills Estates	7,922			X	
		Rosemead	54,955				X
		San Dimas	35,876				X
		San Fernando	24,175			X	
		San Gabriel	40,784				X
		San Marino	13,217			X	
		Santa Clarita	160,554				X
		Santa Fe Springs	17,938			X	
		Santa Monica	86,799				X
		Sierra Madre	10,878			X	
		Signal Hill	10,005			X	
		South El Monte	21,675			X	
		South Gate	98,791				X
		South Pasadena	24,840			X	
		Temple City	35,616				X
		Torrance	141,615				X
		Vernon	93			X	
		Walnut	30,773				X
		West Covina	107,694				X
		West Hollywood	36,670				X

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Westlake Village	8,550			X	
		Whittier	85,446				X
Madera	III	Chowchilla	14,310			X	
		Madera	46,214			X	
		Madera County	69,741			X	
Marin	IV	Belvedere	2,111			X	
		Corte Madera	9,306			X	
		Fairfax	7,263			X	
		Larkspur	11,931			X	
		Marin County	68,378				X
		Mill Valley	13,557			X	
		Novato	48,131				X
		Ross	2,324			X	
		San Anselmo	12,252			X	
		San Rafael	56,288				X
		Sausalito	7,294			X	
		Tiburon	8,746			X	
Mariposa	II	Mariposa County	17,195	X			
Mendocino	I	Fort Bragg	7,029		X		
		Mendocino County	59,096		X		
		Point Arena	475		X		
		Ukiah	15,544		X		
		Willits	5,096		X		
Merced	III	Atwater	24,677			X	
		Dos Palos	4,585			X	
		Gustine	5,236			X	
		Livingston	11,246			X	
		Los Banos	29,525			X	
		Merced	68,225			X	
		Merced County	81,904			X	
Modoc	II	Alturas	2,842		X		
		Modoc County	6,447	X			
Mono	II	Mammoth Lakes	7,404		X		
		Mono County	5,713	X			
Monterey	III	Carmel-by-the-Sea	4,133			X	
		Del Rey Oaks	1,658			X	
		Gonzales	8,307			X	
		Greenfield	12,935			X	
		King City	11,283			X	
		Marina	21,146			X	
		Monterey	29,649			X	
		Monterey County	103,851			X	
		Pacific Grove	15,648			X	
		Salinas	148,744				X
		Sand City	287			X	
		Seaside	32,327			X	
		Soledad	23,440			X	
Napa	III	American Canyon	12,152			X	
		Calistoga	5,296			X	
		Napa	75,032			X	
		Napa County	28,406			X	
		St. Helena	6,069			X	

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Yountville	3,313			X	
Nevada	I	Grass Valley	11,131		X		
		Nevada City	3,019		X		
		Nevada County	66,267		X		
		Truckee	14,630		X		
Orange	IV	Aliso Viejo	40,596				X
		Anaheim	332,642				X
		Brea	37,023				X
		Buena Park	79,015				X
		Costa Mesa	110,126				X
		Cypress	47,249				X
		Dana Point	35,804				X
		Fountain Valley	55,553				X
		Fullerton	128,842				X
		Garden Grove	167,429				X
		Huntington Beach	193,799				X
		Irvine	162,122				X
		La Habra	59,984				X
		La Palma	15,774			X	
		Laguna Beach	24,169			X	
		Laguna Hills	33,627				X
		Laguna Niguel	63,057				X
		Laguna Woods	16,514			X	
		Lake Forest	76,942				X
		Los Alamitos	11,710			X	
		Mission Viejo	96,307				X
		Newport Beach	78,096				X
		Orange	131,606				X
		Orange County	122,764				X
		Placentia	47,798				X
		Rancho Santa Margarita	48,161				X
		San Clemente	55,986				X
		San Juan Capistrano	34,637				X
		Santa Ana	343,413				X
		Seal Beach	24,527			X	
		Stanton	37,958				X
		Tustin	68,637				X
		Villa Park	6,060			X	
		Westminster	89,515				X
		Yorba Linda	61,065				X
Placer	III	Auburn	12,546			X	
		Colfax	1,623			X	
		Lincoln	19,676			X	
		Loomis	6,316			X	
		Placer County	103,324			X	
		Rocklin	43,263			X	
		Roseville	91,761			X	
Plumas	II	Plumas County	18,701	X			
		Portola	2,189		X		
Riverside	IV	Banning	25,590				X
		Beaumont	13,274			X	
		Blythe	21,376			X	
		Calimesa	7,469			X	

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Canyon Lake	10,642			X	
		Cathedral City	46,295				X
		Coachella	27,178				X
		Corona	138,326				X
		Desert Hot Springs	17,310			X	
		Hemet	63,367				X
		Indian Wells	4,405			X	
		Indio	54,221				X
		La Quinta	30,043				X
		Lake Elsinore	31,866				X
		Moreno Valley	150,773				X
		Murrieta	54,100				X
		Norco	25,838				X
		Palm Desert	44,327				X
		Palm Springs	44,526				X
		Perris	38,298				X
		Rancho Mirage	14,614			X	
		Riverside	274,226				X
		Riverside County	461,566				X
		San Jacinto	25,689				X
		Temecula	73,793				X
Sacramento	III	Citrus Heights	88,567			X	
		Elk Grove	75,175			X	
		Folsom	61,256			X	
		Galt	22,321			X	
		Isleton	849			X	
		Rancho Cordova*	57,718			X	
		Sacramento	435,245				X
		Sacramento County	621,669			X	
San Benito	III	Hollister	36,449			X	
		San Benito County	17,916			X	
		San Juan Bautista	1,573			X	
San Bernardino	IV	Adelanto	18,869			X	
		Apple Valley	57,925				X
		Barstow	22,554			X	
		Big Bear Lake	5,752			X	
		Chino	69,961				X
		Chino Hills	72,295				X
		Colton	49,833				X
		Fontana	143,607				X
		Grand Terrace	12,067			X	
		Hesperia	67,021				X
		Highland	47,085				X
		Loma Linda	19,813			X	
		Montclair	34,377				X
		Needles	5,193			X	
		Ontario	165,064				X
		Rancho Cucamonga	143,711				X
		Redlands	66,749				X
		Rialto	96,616				X
		San Bernardino	191,631				X
		San Bernardino County	293,362				X
		Twentynine Palms	29,186				X

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Upland	70,983				X
		Victorville	70,828				X
		Yucaipa	43,830				X
		Yucca Valley	17,760			X	
San Diego	IV	Carlsbad	86,639				X
		Chula Vista	193,919				X
		Coronado	23,862			X	
		Del Mar	4,442			X	
		El Cajon	95,555				X
		Encinitas	59,796				X
		Escondido	135,908				X
		Imperial Beach	27,235				X
		La Mesa	54,966				X
		Lemon Grove	25,057				X
		National City	55,541				X
		Oceanside	165,880				X
		Poway	49,115				X
		San Diego	1,259,532				X
		San Diego County	449,217				X
		San Marcos	62,133				X
		Santee	53,230				X
		Solana Beach	13,068			X	
		Vista	91,565				X
San Francisco	IV	San Francisco City & County	764,049				X
San Joaquin	III	Escalon	6,572			X	
		Lathrop	11,753			X	
		Lodi	60,656			X	
		Manteca	56,904			X	
		Ripon	11,470			X	
		San Joaquin County	136,094			X	
		Stockton	262,835				X
		Tracy	68,018			X	
San Luis Obispo	III	Arroyo Grande	16,290			X	
		Atascadero	26,912			X	
		El Paso de Robles	26,358			X	
		Grover Beach	13,077			X	
		Morro Bay	10,504			X	
		Pismo Beach	8,646			X	
		San Luis Obispo	44,256			X	
		San Luis Obispo County	107,365			X	
San Mateo	IV	Atherton	7,096			X	
		Belmont	24,816			X	
		Brisbane	3,531			X	
		Burlingame	27,773				X
		Colma	1,179			X	
		Daly City	101,901				X
		East Palo Alto	31,709				X
		Foster City	29,194				X
		Half Moon Bay	11,982			X	
		Hillsborough	10,703			X	
		Menlo Park	30,277				X
		Millbrae	20,317			X	

COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Pacifica	37,771				X
		Portola Valley	4,424			X	
		Redwood City	74,453				X
		San Bruno	39,366				X
		San Carlos	27,165				X
		San Mateo	91,935				X
		San Mateo County	62,356				X
		South San Francisco	59,955				X
		Woodside	5,299			X	
Santa Barbara	**III**	Buellton	3,835			X	
		Carpinteria	14,234			X	
		Goleta	28,626			X	
		Guadalupe	5,778			X	
		Lompoc	41,389			X	
		Santa Barbara	89,382			X	
		Santa Barbara County	134,502			X	
		Santa Maria	80,006			X	
		Solvang	5,332			X	
Santa Clara	**III**	Campbell	37,474			X	
		Cupertino	50,005			X	
		Gilroy	43,145			X	
		Los Altos	27,314			X	
		Los Altos Hills	8,002			X	
		Los Gatos	28,209			X	
		Milpitas	63,700			X	
		Monte Sereno	3,453			X	
		Morgan Hill	33,791			X	
		Mountain View	70,046			X	
		Palo Alto	57,543			X	
		San Jose	900,443				X
		Santa Clara	101,867				X
		Santa Clara County	99,330			X	
		Saratoga	29,496			X	
		Sunnyvale	129,687				X
Santa Cruz	**III**	Capitola	9,949			X	
		Santa Cruz	53,836			X	
		Santa Cruz County	131,947			X	
		Scotts Valley	11,438			X	
		Watsonville	46,644			X	
Shasta	**III**	Anderson	9,420			X	
		Redding	85,660			X	
		Shasta County	67,026			X	
		Shasta Lake	9,693			X	
Sierra	**II**	Loyalton	861		X		
		Sierra County	2691	X			
Siskiyou	**II**	Dorris	874		X		
		Dunsmuir	1,894		X		
		Etna	771		X		
		Fort Jones	650		X		
		Montague	1,439		X		
		Mount Shasta	3,586		X		
		Siskiyou County	23,795	X			
		Tulelake	1,006		X		

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COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Weed	2,912		X		
		Yreka	7,176		X		
Solano	III	Benicia	27,159			X	
		Dixon	16,261			X	
		Fairfield	101,935				X
		Rio Vista	5,684			X	
		Solano County	19,683			X	
		Suisun City	26,979			X	
		Vacaville	93,573			X	
		Vallejo	119,798				X
Sonoma	III	Cloverdale	7,275			X	
		Cotati	6,706			X	
		Healdsburg	11,101			X	
		Petaluma	55,252			X	
		Rohnert Park	42,342			X	
		Santa Rosa	153,489				X
		Sebastopol	7,787			X	
		Sonoma	9,354			X	
		Sonoma County	150,900			X	
		Windsor	24,180			X	
Stanislaus	III	Ceres	36,707			X	
		Hughson	5,033			X	
		Modesto	203,555				X
		Newman	7,516			X	
		Oakdale	16,895			X	
		Patterson	13,521			X	
		Riverbank	17,640			X	
		Stanislaus County	112,396			X	
		Turlock	61,647			X	
		Waterford	7,530			X	
Sutter	III	Live Oak	6,405			X	
		Sutter County	28,962			X	
		Yuba City	47,213			X	
Tehama	I	Corning	6,823		X		
		Red Bluff	13,508		X		
		Tehama	438		X		
		Tehama County	36703		X		
Trinity	II	Trinity County	13,174	X			
Tulare	III	Dinuba	17,587			X	
		Exeter	9,504			X	
		Farmersville	9,033			X	
		Lindsay	10,524			X	
		Porterville	41,309			X	
		Tulare	45,979			X	
		Tulare County	144,118			X	
		Visalia	96,889			X	
		Woodlake	6,829			X	
Tuolumne	I	Sonora	4,552		X		
		Tuolumne County	51,298		X		
Ventura	III	Camarillo	59,444			X	
		Fillmore	14,919			X	
		Moorpark	34,577			X	
		Ojai	7,943			X	

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COUNTY	MSA classification (see Table A for clarification)	PLACE	2002 Census Population	at least 10 du/ac	at least 15 du/ac	at least 20 du/ac	at least 30 du/ac
		Oxnard	177,984				X
		Port Hueneme	22,249			X	
		San Buenaventura (Ventura)	103,619				X
		Santa Paula	28,835			X	
		Simi Valley	116,562				X
		Thousand Oaks	122,700				X
		Ventura County	95,088			X	
Yolo	III	Davis	64,221			X	
		West Sacramento	36,544			X	
		Winters	6,550			X	
		Woodland	50,850			X	
		Yolo County	22,691			X	
Yuba	III	Marysville	12,520			X	
		Wheatland	2,476			X	
		Yuba County	47,343			X	

Sources:

Census 2002 Population: http://www.census.gov/popest/archives/2000s/vintage_2002/SUB-EST2002-10.html

Metropolitan and Micropolitan Statistical Areas:
OMB Bulletin No 04-03 http://www.whitehouse.gov/omb/bulletins/fy04/b04-03.html

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APPENDIX 2

Changes to State Housing Element Law
AB 2348 (Chapter 724, Statutes of 2004)

6/13/2005

Changes to State Housing Element Law
AB 2348 (Chapter 724, Statutes of 2004)

(Changes indicated in strikeouts and underlines)

SECTION 1: Section 65583 of the Government Code is amended to read:

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, and mobilehomes, 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 ~~qualification~~ quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with 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) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), 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 identified pursuant to paragraph (6).

(5) 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.

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(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. ~~The department shall adopt regulations to implement this paragraph, including parts of~~

(7) An analysis of ~~this paragraph determined by the department or any other state agency or a court to be a reimbursable state mandate. For any revision of a housing element required pursuant to Section 65588 that occurs subsequent to the adoption of those regulations, any actions undertaken by the locality beyond those specified in the regulations are at that locality's option and are not required by this section. (7) At the option of local government, an analysis of~~ opportunities for energy conservation with respect to residential development.

(8) 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 that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions 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, provision of regulatory concessions and incentives, and 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) ~~(A)~~ Identify ~~adequate sites which~~ actions that will be ~~made~~ taken to make sites available ~~through~~ during the planning period of the general plan with appropriate zoning and development standards and with services and facilities, ~~including sewage collection and treatment~~, to ~~domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of~~ 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. 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, emergency shelters, and transitional housing ~~in order to meet the community's housing goals as identified in subdivision (b).~~

~~(i~~ (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, the program shall ~~provide for sufficient~~ identify sites ~~with zoning~~ that ~~permits owner-occupied and rental multifamily residential use by~~ can be developed for ~~right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low income households. (ii~~housing within the planning period pursuant to subdivision (h) of Section 65583.2.

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(B) 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. ~~(B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed use project involving both commercial or industrial uses and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.~~

~~(C) The requirements of this subdivision regarding identification of sites for farmworker housing shall apply commencing with the next revision of housing elements required by Section 65588 following the enactment of this subparagraph.~~

(2) Assist in the development of adequate housing to meet the needs of 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, or 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) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) 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 (8) 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.

(B) The program shall 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. The local government shall make a diligent effort 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.

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(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SECTION 2. Section 65583.1 of the Government Code is amended to read:

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with ~~state law~~ this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety ~~of~~ of methods, including, but not limited to, redesignation of property ~~to~~ to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow ~~a city~~ 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 ~~if~~ 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, ~~(III) the local~~ or the relocation is ~~government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been cited and found by the local code enforcement agency or a court to be unfit for human habitation and vacated or subject to being vacated because of the existence for not less than 120 days or four of the conditions listed in subdivisions (a) to~~ 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, ~~except that if the period is less than 20 years, only one unit shall be credited as an identified adequate site for every three units rehabilitated pursuant to this section, and no credit shall be allowed for a unit required to remain affordable for less than 10 years.~~

(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.

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(B) Units that are located in a multifamily rental housing complex of ~~16~~ four 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 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 ~~a cost~~ an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-~~or~~ 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 ~~acquisition price is not greater than 120 percent of the median price for housing units in the city or county.~~ ~~(vi) 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 ~~30~~ 55 years.

(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 multifamily rental housing that receives governmental assistance under any of the following state and federal programs: Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 1715l(d)(3) and (5)); Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1); Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q); for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s); under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485); and any new construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f); any state and local multifamily revenue bond programs; local redevelopment programs; the federal Community Development Block Grant Program; and other local housing assistance programs or units that were used to qualify for a density bonus pursuant to Section 65916.

(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 such 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 first two years of the housing element 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) On July 1 of 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.

SECTION 3 Section 65583.2 of the Government Code is amended to read:

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

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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 (4) 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 incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

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

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

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

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(e) A jurisdiction is 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 is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is 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 is 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.

(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 21100) 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 21100) 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.

SECTION 4 Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing 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 that contribute to meeting the housing 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 condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low- or moderate-income households 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 and that is in substantial compliance with this article, and the development project is not needed for the jurisdiction to meet its share of the regional housing need for very low, low-, or moderate-income housing.

(2) The development project 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. 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.

(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.

(4) ~~Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision © of Section 65583, without rendering the development unaffordable to low- and moderate income households. (5)~~ The development project 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.

(~~6~~5) The development project 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 housing element ~~pursuant to~~ in substantial compliance with this article. This subdivision cannot be utilized to disapprove a housing development project defined in subdivision (a) if the development project is proposed on a site that is identified 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.

(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) 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 ~~quantified objectives relative to~~ jurisdiction's share of the ~~development of~~ regional housing~~, as required in the housing element~~ need pursuant to ~~subdivision (b) of~~ Section ~~65583~~ 65584.

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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 project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law ~~which~~ that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing 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 either 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.

(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) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(6) "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 subparagraph (B) of paragraph (1) of 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.

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(k) 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 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. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable ~~attorney~~ attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, 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.

(l) 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, all or part of the record may be filed (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.

SECTION 5 Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant proposes a housing development within the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this chapter. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.

(b) A city, county, or city and county shall either grant a density bonus and at least one of the concessions or incentives identified in subdivision (k), or provide other incentives or concessions of equivalent financial value based upon the land cost per dwelling unit, when the applicant for the housing development agrees or proposes to construct at least any one of the following:

(1) Twenty percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(2) Ten percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(3) Fifty percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.3 of the Civil Code.

(4) Twenty percent of the total dwelling units in a condominium project as defined in subdivision (f) of Section 1351 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

The city, county, or city and county shall grant the additional concession or incentive required by this subdivision unless the city, county, or city and county makes a written finding, based upon substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of the moderate-income units that are directly related to the receipt of the density bonus for 10 years if the housing is in a condominium project as defined in subdivision (f) of Section 1351 of the Civil Code.

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(d) An applicant may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of either of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which 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.

The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section. The city, county, or city and county shall also establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

(e) In no case may a city, county, or city and county apply any development standard that will have the effect of precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit.

Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(f) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(g) (1) For the purposes of this chapter, except as provided in paragraph (2), "density bonus" means a density increase of at least 25 percent, unless a lesser percentage is elected by the applicant, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units which is equal to 10, 20, or 50 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(2) For the purposes of this chapter, if a development does not meet the requirements of paragraph (1), (2), or (3) of subdivision (b), but the applicant agrees or proposes to construct a condominium project as defined in subdivision (f) of Section 1351 of the Civil Code, in which at least 20 percent of the total dwelling units are reserved for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, a "density bonus" of at least 10 percent shall be granted, unless a lesser percentage is elected by the applicant, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units which is equal to 20 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or a city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

(i) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, "housing development" also includes either (1) a project to substantially rehabilitate and convert an existing commercial building to residential use, or (2) the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(l) If an applicant agrees to construct both 20 percent of the total units for lower income households and 10 percent of the total units for very low income households, the developer is entitled to only one density bonus and at least one additional concession or incentive identified in Section 65913.4 under this section although the city, county, or city and county may, at its discretion, grant more than one density bonus.

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) A local agency may charge a fee to reimburse it for costs it incurs as a result of amendments to this section enacted during the 2001-02 Regular Session of the Legislature.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" means any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedrooms: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

Appendix 2

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.

(3) This subdivision shall apply to a development meeting the requirements of subdivision (b) and only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subdivision (d).

Appendix 2

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